129-663

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1888.

No. ~~368~~. 98

IDA RALSTON, APPELLANT,

vs.

GEORGE B. TURPIN, AS TRUSTEE FOR HIS CHILDREN WILLIAM C. TURPIN, FRANK M. TURPIN, GEORGE R. TURPIN, AND WALTER H. TURPIN ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF GEORGIA.

FILED OCTOBER 12, 1885.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, FEBRUARY 8, 1888.

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1 UNITED STATES OF AMERICA,
Western Division, Southern District of Georgia, } ss:

At a stated term of the circuit court of the United States of America for the western division of the southern district of Georgia, held in the United States court-rooms, in the city of Macon, in and for the said division and district, on Monday, the fourth (4th) day of May, in the year of our Lord one thousand eight hundred and eighty-five—present, the Honorable Emory Speer, judge for the southern district of Georgia, presiding—the following proceedings, amongst others, were had, to wit:

Bill to Cancel Deeds, &c.

IDA RALSTON, Complainant,
and
GEORGE B. TURPIN, Trustee, *et al.*, Defendants. } In Equity.

Be it remembered that heretofore, to wit, on the seventh (7th) day of August, A. D. 1883, came the said complainant, by Lanier & Anderson, her solicitors, and filed her bill in equity against said
2 defendants; which said bill is in the words and figures following, to wit:

Bill.

UNITED STATES OF AMERICA,
Southern District of Georgia, Western Division:

Fifth Circuit Court of the United States.

To the honorable the judges of the fifth circuit court of the United States for the said southern district of Georgia & western division:

Mrs. Ida Ralston, who avers that she is a citizen and resident of the city, county, and State of New York, brings this her bill of complaint against George B. Turpin, as trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, & Walter H. Turpin, and against the said William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, all of whom are citizens and residents of the county of Bibb, in the State of Georgia, in the said western division of the said southern district of Georgia; and thereupon your oratrix complains and says that she is the widow of James A. Ralston, who departed this life on the fourth day of July, in the year eighteen hundred and eighty-three, who was at the time of his death, although dying in the State of New Jersey, a citizen and resident of the State of New York, she having been lawfully married to him at New York city, county and State of New York, on the 3d day of January, 1880. She states that said James A. Ralston died without leaving any child or children, but
3 leaving a will, in which he bequeathed to complainant all the property of every description of which he should die seized

and possessed after the payment of his just debts & funeral expenses, &c. Said will was executed in the city, county, and State of New York before three witnesses, all of whom reside there or in said State, and has not yet been probated, so far as complainant knows or believes. The said George B. Turpin and one Thomas L. Massenberg, both citizens and residents of the said county of Bibb and the said State of Georgia, are named in said will as the executors thereof, and it is the purpose of the said George B. Turpin, as complainant is reliably informed, to insist upon his right to qualify as one of the executors of said will, notwithstanding the facts hereinafter to be stated. In truth this complainant has already been cited to appear before the court of ordinary of said county of Bibb at the instance, as she is advised, of the said Turpin and Massenberg, to attend the probate of said will and has been ordered to produce said will in said court for that purpose.

This complainant states that on or about the — day of December, in the year 1864, the father of the said James A. Ralston, who was also named James A. Ralston (and who will hereinafter be referred to as James A. Ralston, Senior), died in the said county of Bibb and State of Georgia, leaving an estate, mostly of realty, which was appraised in February, 1865, at about three hundred and eighteen thousand dollars. In what currency said valuation was made complainant is not informed, but said estate consisted, amongst
4 other things, of a very valuable dwelling-house and lot and a number of valuable stores & business houses, all located in the city of Macon, in the said county of Bibb, and from the best information complainant has been able to obtain she believes and so charges that the estate and property so left by the said James A. Ralston, Senior, was worth in United States currency at the time of his death between two hundred thousand and three hundred thousand dollars. When the said James A. Ralston, Senior, died he left as his heirs-at-law (having died intestate) his widow, Mrs. Aurelia L. Ralston, and three children, all of whom were then minors, to wit, Henry G., David, and James A. Ralston. The said Henry G. died on or about the 30th day of March, 1865, and the said David died on or about the — day of April, 1866, both of them dying without having married and without leaving any child or children. The said Mrs. Aurelia L. Ralston and the said James A. Ralston, Junior, thereby became entitled to the whole estate left by the said James A. Ralston, Senior, they having inherited equally the shares of the said Henry G. and David Ralston, deceased.

At the September term, 1867, of the court of ordinary of said Bibb county the said George B. Turpin was appointed guardian of the said James A. Ralston, Junior, who was then still a minor, being about seventeen years of age, and who had selected in writing the said Turpin to fill that office. Mrs. Aurelia L. Ralston, in the month of February, in the year 1867, intermarried with Dr. Nathan Bozeman, they having prior to said marriage and in contemplation thereof entered into a marriage contract, by which it was
5 stipulated that all the property of which the said Mrs. Aurelia L. was seized and possessed in her own right as one of the

heirs and distributees of her former husband and of her said two deceased children should remain and continue her separate estate, and should be subject to disposition by her by will. Subsequently, to wit, on or about the — day of March, in the year 1870, the said Mrs. Aurelia L. Bozeman made and executed a will, in which she gave her son, James A. Ralston, Junior, a valuable portion of her estate, naming the said George B. Turpin and two other persons as executors. In the year 1873 the said Mrs. Bozeman died, and her said will was admitted to probate in the court of ordinary of the said county of Bibb on or about the 6th day of October, in the year 1873, when the said George B. Turpin alone qualified as and became the sole executor thereof. Complainant is not advised as to the time when the estate of the said James A. Ralston, Senior, was divided between his said widow and her husband and the said James A. Ralston, Junior. The said Turpin continued to act as the guardian of the said James A. Ralston, Junior, until on or about the — day of ——, 187–, he having the management of the property of the said James A., Junior, during that time as such guardian.

Complainant is advised and believes and so charges that even before the said Turpin was selected and appointed guardian of the said James A. Ralston, Junior, he had become intimately friendly with him, and soon thereafter acquired considerable influence over
6 him. The said Turpin also shortly thereafter ingratiated himself, as complainant is informed and believes, in the favor and confidence of the said mother of the said James A., Junior, and was appointed as one of the executors of her will, as already stated. The confidential relations as thus established between the said Turpin and the said James A., Junior, enabled the said Turpin, as the complainant is advised and believes, to strengthen the influence which he had already acquired over the said James A., Junior, who, being young and inexperienced in business matters and having little capacity or inclination for matters of business, and giving himself up to a life of ease and dissipation, was easily influenced, so far as the management and disposition of property was concerned, by the said Turpin, who professed unusual interest in and great friendship for him, and in whom the said James A., Junior, had almost unbounded confidence. When the said Turpin ceased to manage the property thus acquired by the said James A., Junior, as his guardian and as executor of his mother's will he continued to manage the same as the business agent and trusted friend of the said James A., Junior, as complainant is advised and believes, until in connection with J. Munroe Ogden, under the firm name of Turpin & Ogden, they being real estate agents doing business in the city of Macon, in the said county of Bibb, said Turpin continuing to maintain, as complainant is informed and believes, the same personal and confidential relations towards the said James A., Junior, as he had theretofore done. The said Turpin & Ogden have for many years past and up to the time of the death of the said James A., Junior,
7 had the entire management of his property and financial affairs, renting out said property and collecting the rents thereof from year to year, and receiving large commissions for doing

so. The said James A., Junior, had for many years prior to his death lead an extravagant and dissipated life, being for almost all the time under the influence of intoxicating liquors, and giving little or no attention to his business matters and trusting the same entirely to the management of the said Turpin & Ogden. The said Turpin especially had a peculiar influence over him, induced by the former's constant protestation of his friendly interest in and regard for him and that he was devoted to his interest and welfare. Some years prior to the death of the said James A., Junior, the said Turpin, taking advantage of his influence over the said James A., Junior, growing out of the confidential and business relations aforesaid, commenced efforts to induce the said James A., Junior, to make some provision out of his said estate for the said Turpin's children at the death of the said James A., Junior, and on or about the —— day of ——, in the year 1880, the said Turpin went from Macon, Georgia, to the "North," where the said James A.. Junior, then was, and personally solicited the said James A., Junior, to make a deed of gift for the benefit of the said Turpin's children to the property hereinafter described, which then constituted, as complainant is informed and believes, the most valuable portion of the said James A. Junior's remaining property, his estate having before that time been largely reduced by his wasteful, extravagant, and dissipated
8 habits and by the heavy expense attending the management of his said property. Complainant and her said husband were then sojourning at Stamford, in the State of Connecticut, to which place the said Turpin came, and, in a conversation which he sought with the said James A., Junior, in her presence, he stated to the said James A. that he had frequently promised to do something for his, the said Turpin's, children at his, the said James A.'s, death, and that then was as good a time as any to do it. He stated further that the property he wanted said James A. to convey to his children was not worth as much as the other property still belonging to the said James A., and that if he would make a deed of gift of said property as he, the said Turpin, desired it would still leave ample property for the comfortable support of his, the said James A.'s, widow after his death. The said Turpin brought with him a deed already prepared, which he exhibited to the said James A. & to complainant. The said James A., being thus importuned and being in a declining state of health, his constitution being already greatly weakened by dissipation, and being apparently ready to do anything which the said Turpin would ask, readily consented to sign the said deed of gift. Complainant, being then greatly under the influence of the said Turpin herself, and being willing to do almost anything to conciliate and gratify him, as well as indisposed to oppose her said husband in anything he might be disposed to do for one whom she then supposed had been a long and devoted friend of her husband
and on whose good will & friendship her said husband so
9 implicitly relied, consented to unite with her said husband in making whatever relinquishment of her rights in the premises that said Turpin might desire. The said Turpin desiring said deed to be witnessed by a commissioner for the State of Georgia,

proposed that he would remain and take care of the house in which she and her said husband were then sojourning, and that the said James A. and complainant should go with said J. Munroe Ogden, the business partner of the said Turpin as aforesaid, who also was then at Stamford, to the town of Bridgeport, in said State of Connecticut, to seek such commissioner for Georgia. This was done, but, no commissioner for the State of Georgia being found *out* Bridgeport, the said James A. and complainant, accompanied by the said Turpin, subsequently went to the city of New York, where the said deed of gift so before prepared and brought to Stamford by the said Turpin was executed by the said James A., and a relinquishment of dower, &c., was executed by complainant. Said deed of gift, a copy of which is hereto attached, marked Exhibit "A," with prayer for the usual leave of reference as part hereof, conveyed to the said Turpin, in trust for his children therein named, the following property, to wit: All of those lots or parcels of land situate in the city of Macon, in the said county and State of Georgia, and known as the Ralston Hall Theatre building, situate on the corner of Third & Cherry streets, in said city, together with the lots on Cherry street, and numbered as follows: No. eighty-two (82), occupied by Johnson & Harris; No. eighty-six (86), occupied by Felix Corput; No. eighty-eight (88), occupied by J. M. Christian; No. ninety (90), oc-
10 cupied by M. L. Grace, & No. eighty-four (84), then vacant, and further as more fully described in said deed to which reference is here made.

In the early part of the following year, 1881, the said Turpin forwarded by mail from Macon, Georgia, to said James A., who was still either in New York or Connecticut, another deed of gift for substantially the same property, with request that the same be executed by the said James A. and complainant, as before, stating that there was some informality in the former one. At about that time Mrs. Laura Smith, an aunt of the said James A., Junior, was at Macon, Georgia, and the said Turpin, in his correspondence with the said James A., at or about the time of so forwarding the said second deed of gift, mentioned that the said Mrs. Smith was then in Macon, but stated in substance that he had not found out the exact object of her visit, but was trying to do so. In point of fact the said Mrs. Smith was then taking steps to recover, by suit or otherwise, a claim for a large amount of money against the estate of the said James A. Ralston, Senior, which, if recovered, would have to be paid out of the property held by the said James A. Ralston, Junior, and that held by Dr. C. M. Bozeman, derived from the estate of his deceased wife, Aurelia L. Complainant has reason to believe from information since obtained that the said Turpin knew the object of the said Mrs. Smith's presence in Macon, Ga., when he forwarded said second deed of gift to the said James A., Junior, for execution as aforesaid, but with-eld what information he had as to the said
11 Mrs. Smith's purpose until after said second deed of gift was executed and returned to him. Not long thereafter the said Turpin, having informed the said James, A., Junior, of the said Mrs. Smith's said claim, advised the said James A., Junior, to compromise

he same, and the latter, always ready to do what the said Turpint advised, consented to said compromise and authorized the said Turpin to negotiate with the said Mrs. Smith for that purpose. The said Turpin did thereafter make a compromise of said claim with the said Mrs. Smith, by which the said James A., Junior, agreed to pay her ten thousand dollars as his part, a small part of which was in cash and the remainder in deferred payments, and also to convey to her two stores at his death which were in Macon, Ga., reserving the right that the two stores might be redeemed after his death by the payment of ten thousand dollars to the said Mrs. Smith. Such was the compromise in substance, as complainant is advised, which the said Turpin made with the said Mrs. Smith after he had procured the execution of said second deed of gift as aforesaid, which was signed by the said James A., Junior, with the relinquishment of dower, &c., by complainant under the same influences which brought about the execution of the first deed of gift. In fact, the said James A., Junior, and complainant, having already made the first deed as aforesaid, executed the second almost as a matter of course, regarding it merely as the correction of some informality in the first. A

12 copy of said second deed of gift, with relinquishment, &c., as part hereof, is attached hereto with prayer for the usual leave of reference. Neither of said deeds of gift was based on any valuable consideration. The said Turpin and the said Turpin and Ogden had been fully compensated for all the services they or either of them had rendered to the said James A., Junior, in the management of his property or otherwise. The said compromise with the said Mrs. Smith fixed a heavy incumbrance on the remaining property of the said James A. Ralston, Jr., and if the said Turpin's children are permitted to hold the property covered by said deeds of gift there will be comparatively little left for complainant, the widow & sole legatee of said James A., Junior, and under the laws of Georgia his sole heir-at-law, after the payment of the debts of complainant's said deceased husband and the expenses of administering his estate. Both said deeds of gift as executed as aforesaid were so drawn as to take effect at the death of the said James A. Ralston, Jr., thereby conveying to the said Turpin, in trust for his children named in said second deed of gift (one of said children named in said first deed having died before the execution of the record), the said property therein described absolutely and in fee simple after the death of the said James A., Junior, subject to encumbrances then resting on said property mentioned therein. Complainant states that twenty-five hundred dollars of the five thousand dollars due to Wm. Henry Ross, trustee, named in the mortgage incumbrance specified in said deed was paid by the said James A., Junior, before his death, or rather by said Turpin out of money belonging to said James A., Junior.

13 The property of the estate of said James A. Ralston, Jr., left by him at his death, apart from that embraced in said deed of gift, is not worth, from the best information complainant can obtain, more than six thousand dollars. This estimate does not include the two stores deeded as aforesaid to Mrs. Laura R. Smith,

to take effect at the death of the said James A., Junior, and which will require ten thousand dollars ($10,000) to redeem. Whether said two stores are worth more than ten thousand dollars complainant is not advised. Complainant does not know and cannot state how much the indebtedness of said James A. Junior's estate amounts to, but from the best information she has on the subject the property left by him, apart from that embraced in said deed of gift, is more than sufficient to pay said indebtedness and the necessary expenses of administering his estate. Complainant is advised and believes that under the laws of the State of Georgia the title to all real property of a deceased person situate in said State vests directly in his heir or heirs at law, and that she, under the laws of said State, is the only heir-at-law of the said James A. Ralston, Jr., deceased.

She further states that she is advised and believes that, whether the will of the said James A. Ralston, Jr., is probated and admitted to record in the State of New York or in the State of Georgia, the said Turpin is entitled, if he complies with the law of the State where it is probated, to qualify as one of the executors of said will or as the sole executor if the said Massenberg shall decline to qualify, and he having procured said deed of gift to be made as aforesaid, and his said children named in said second deed of gift being the
14 beneficiaries thereof, complainant has no doubt he will decline to institute any proceeding for the cancellation of any deeds of gift or for the recovery of the property conveyed thereby to him as trustee for his children, and complainant has reason to believe that he is insisting on his right to qualify as one of the executors of said will for the purpose of throwing obstacles in the way of bringing any suit in favor of the legal representative or representatives of the said James A. Ralston, Junior, deceased, one of complainant's attorneys having at her instance called on him and stated to him that she did not wish him to qualify as one of said executors and he having replied, as she is informed and believes, that he intended to qualify whether she desired it or not. Besides, complainant respectfully suggests that the said Turpin, in view of his relations as aforesaid to the matters aforesaid, would not be a proper person, even if he were willing to bring suit for the recovery of said property against himself as trustee and against his said children. From the best information complainant can obtain the property embraced in said deeds of gift is reasonably worth forty thousand dollars, if not more, and from three to four thousand dollars as gross rental.

All which actings and doings on the part of the said defendant are contrary to equity and good conscience and tend to the manifest wrong & injury of complainant; and forasmuch as complainant has no adequate remedy in a court of law and can only have
15 adequate relief in a court of equity, where such matters are properly cognizable and relievable, to the end, therefore, that the said defendant, George B. Turpin, as trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin (the last three being, as complainant is advised, under the age of twenty-one years), may, if they can, show why complain-

ant, your oratrix, should not have the relief hereby prayed—that is to say, that they, the said defendants, be decreed to deliver up to be cancelled the said two deeds of gift made by the said James A. Ralston, Jr., to the said George B. Turpin in trust for his said children, and relinquishment of dower, &c., thereto attached, signed by your oratrix, being the deeds hereinbefore described, and copies of which are attached to this bill of complaint, and that said defendant be also decreed to account to and with your oratrix for the gross rents of the property described in said deeds of gift from the death of said James A. Ralston, Jr., deceased, to the date of said decree, and to pay to your oratrix the value of said property for rents for and during said period, and that it be further decreed that said deeds of gift be cancelled, and that your oratrix do recover of the said defendants all the property described in said deeds of gift and be vested with the title thereto absolutely and in fee simple and as if said deeds of gift and relinquishments had never been made or executed, and that your oratrix may have such further or other relief in the premises as the nature of the circumstances of this case may require and to this honorable court shall seem meet—

16 May it please your honors, your oratrix expressly waiving all discovery from each and all the said defendants, to grant unto your oratrix a writ of subpœna of the United States of America, issuing out of and under the seal of this honorable court, directed to the said George B. Turpin, as trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, and to the said William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, defendants, and each of them, on a day certain therein to be named and under a certain penalty, to appear & be at this honorable court, then and there to answer all and singular the premises, and to stand to, perform, and abide such further order, direction, & decree as may be made against them ; and your oratrix, as in duty bound, will ever pray, &c.

LANIER & ANDERSON,
Complainant's Solicitors.

STATE OF GEORGIA, *County of Bibb:*

On this 7th day of August, 1883, Mrs. Ida Ralston, the complainant in the foregoing bill, appears before me, a notary public in the said county and State (the subscriber), and makes oath that the several facts, matters, and things set forth in the foregoing bill of complaint are true as therein stated, to the best of her knowledge, information, & belief.

IDA RALSTON.

Sworn to & subscribed before me this 7th day of Aug., 1883.

W. W. WRIGLEY,
Notary Public, Bibb Co., Ga.

17 EXHIBIT "A."

STATE OF NEW YORK, *County of New York:*

This indenture, made the twenty-eighth day of August, in the year one thousand eight hundred and eighty, between James A. Ralston, of the county of Fairfield and State of Connecticut, of the first part, and George B. Turpin, trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, Lizzie Turpin, and Walter H. Turpin, of the county of Bibb and State of Georgia, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of five dollars (and other valuable consideration), lawful money of the United States, to him in hand paid by the said party of the second part at or before the ensealing & delivery of these presents, the receipt whereof is hereby acknowledged, and the said party of the second part, his successors, administrators, and executors, forever released and discharged from the same, by these presents hath granted, bargained, sold, aliened, remised, released, conveyed, & confirmed, and by these presents doth grant, bargain, sell, alien, remise, release, convey, and confirm, unto the said party of the second part and to his successors and assigns forever all of those lots or parcels of land situate, lying, and being in the city of Macon, county of Bibb, and State of Georgia, and known as the Ralston Hall Theatre building, situated at the
18 corner of Third and Cherry streets, in said city, together with the lots on Cherry street, and numbered as follows: No. eighty-two (82), occupied by Johnson & Harris; No. eighty-six (86), occupied by Felix Corput; No. eighty-eight (88), occupied by J. M. W. Christian; No. ninety (90), occupied by William F. Grace, and No. eighty-four (84), being now vacant, the property hereby conveyed being all the property on said Cherry street, beginning at and including the lot on which the store now occupied by said William F. Grace is located, running on Cherry street, thence along said Third street to the first store adjoining said Ralston Hall, on Third street. The property hereby conveyed is sold with the condition that so long as the said James A. Ralston shall live he is to receive the annual rents, issues, and profits of said property, less such expense as may be incurred in the collection of the same and amounts that shall be paid for taxes, repairs, and insurance; and so soon as the said James A. Ralston shall die, then the title to said property shall vest absolutely and in fee simple in said George B. Turpin, trustee aforesaid, and his successors, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest in said property, possession, claim, and demand whatsoever, as well in law as in equity, of the
19 said party of the first part of, in, and to the same and every part and parcel thereof:

To have and to hold the above granted, bargained, and described premises, with the appurtenances, unto the said party of the second part, his successors and assigns, to their own proper use, benefit, and

behoof forever. This deed, so far as the property now occupied by William F. Grace is concerned, is subject to a mortgage made by James A. Ralston to William H. Ross for five thousand dollars; and the said James A. Ralston, for his heirs, executors, and administrators, doth covenant, grant, and agree to and with the said party of the second part, his successors and assigns, that the said James A. Ralston is at the time of the sealing and delivery of these presents lawfully seized in his own name and right of a good, absolute, and indefeisible estate of inheritance in fee simple of and in all and singular the above granted and described premises, with the appurtenances thereunto appertaining and belonging, and has good right, full power, and lawful authority to grant, bargain, and sell and convey the same in * manner aforesaid, and that the said party of the second part, his successors and assigns, shall and may at all times hereafter peaceably and quietly have, hold, use, occupy, possess, and enjoy every part and parcel thereof, with the appurtenances, without any let, suit, trouble, molestation, eviction, or disturbance of the said party of the first part, his heirs or assigns, or of any other person or persons lawfully claiming or to claim the same,
20 and that the same are now free, clear, discharged, and unencumbered of and from all former and other grants, titles, estates, judgments, taxes, assessments, and encumbrances of what nature or kind soever, except as hereinbefore expressed; and also that the said party of the first part, and for his heirs and all and every person or persons whomsoever lawfully or equitably deriving any estate, right, title, or interest of, in, or to the hereinbefore-granted premises by, from, under, or in trust for them, shall and will, at any time or times hereafter, upon the reasonable request and at the proper costs and charges in the law of the said party of the second part, his successors and assigns, make, do, and execute, or cause to be made, done, and executed, all and every such further and other lawful and reasonable acts, conveyances, and assurances in the law for the better and more effectual vesting and confirming the premises hereby granted or so intended to be in and to the said party of the second part, his successors and assigns, forever as by the said party of the second part, his successors or assigns or their counsel learned in the law, shall be reasonably advised or required; and the said James A. Ralston, for himself and his heirs, the above-described and hereby granted and released premises and every part and parcel thereof, with the appurtenances, unto the said party of the second part, his successors and assigns, against the said party of the first part and his heirs and against all and every
21 person or persons whomsoever lawfully claiming or to claim the same shall and will warrant and by these presents forever defend.

In witness whereof the said party of the first part has hereunto set his hand and seal the day and year first above written.

JAMES A. RALSTON. [L. S.]

Signed and sealed in the presence of—
A. PROUDFIT.
CHAS. EDGAR MILLS.

All erasures and interlineations made before signing and sealing.

CHAS. EDGAR MILLS.
A. PROUDFIT.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 28th day of August, A. D. 1880, before me, Chas. Edgar Mills, a commissioner of the State of Georgia in New York, residing in the city of New York, personally appeared James A. Ralston, to me personally known to be the individual who executed the foregoing instrument, who acknowledged that he had executed the same for the purposes therein named and mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal this 28th day of August, A. D. 1880.

[SEAL.] CHAS. EDGAR MILLS,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

22 STATE OF NEW YORK, *County of New York:*

Know all men by these presents that I, Ida Ralston, wife of James Ralston, d*oth*, in consideration of the sum of five dollars cash in hand paid to me by George B. Turpin, trustee mentioned in a deed this day made to him by my husband, James A. Ralston, *doth* ratify and confirm and d*oth* freely and voluntarily give my consent to the conveyance of the property mentioned in said deed.

In testimony of which I have hereto set my hand and seal this 28th day of August, 1880.

IDA RALSTON. [L. S.]

Signed, sealed, and delivered in presence of—
A. PROUDFIT.
CHAS. EDGAR MILLS.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 28th day of August, 1880, before Chas. Edgar Mills, a commissioner of the State of Georgia in New York, residing in the city of New York, personally appeared Ida Ralston, the wife of James A. Ralston, to me personally known to be the individual named in and who executed the foregoing instrument, who acknowledged that she executed the same for the purposes therein named and mentioned; and the said Ida Ralston, being duly
23 examined by me separately and apart from her said husband, did declare that she did freely and voluntarily and without any compulsion from her husband sign, seal, and deliver said instrument for the purposes therein mentioned with intention thereby to renounce, give up, and forever quitclaim all her right of dower and thirds and all her other interest of, in, and to the lands and tenements therein mentioned and conveyed.

In witness whereof I have hereunto set my hand and seal—affixed my official seal this 28th day of August, A. D. 1880.

CHAS. EDGAR MILLS,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

GEORGIA, *Bibb County:*

CLERK'S OFFICE SUPERIOR COURT, *August 6th*, 1883.

I certify that the above and foregoing eight (8) pages is a correct transcript from the record of deeds in this office as the same appears in Book "B B," on folios 662, 663, and 664, under date of September 13th, 1880.

* (The word "any," on the 4th page, erased by undersigned.)

Given under my hand and seal.

[Seal Superior Court, Bibb County, Ga.]

J. W. BLOUNT, *D. Cl'k.*

EXHIBIT "B."

24 STATE OF NEW YORK, } *ss:*
County of New York, }

This indenture, made the 19th day of April, eighteen hundred and eighty-one, between James A. Ralston, of the county of Fairfield and State of Connecticut, of the first part, and George B. Turpin, trustee, of the county of Bibb and State of Georgia, of the second part, witnesseth:

That the said Jas. A. Ralston, for and in consideration of the love and affection which he bears to the said George B. Turpin and to his children hereinafter mentioned, as well as in consideration of the valuable aid and assistance which he has received from the said George B. Turpin during a long series of years in his personal and business affairs, as well as in consideration of the sum of five dollars in hand paid by the said George B. Turpin at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, and conveyed, and doth by these presents grant, bargain, sell, and convey, unto the said George B. Turpin, trustee, and to his successors in said trust, and to his assigns, duly authorized, all those lots or parcels of land situate, lying, and being in the city of Macon, county of Bibb & State of Georgia, being parts of lots (7) seven and (8) eight, in square (39) thirty-nine, of said city of Macon, and fronting on Cherry and Third streets, and bounded as follows: Beginning at a point on Cherry street (133) one hundred and thirty-three feet from the corner of Cherry and Third streets (said point being the dividing line between said conveyed property and the property now owned
25 and occupied by E. Witkawski) a line running southeasterly along the line of said property and Cherry street (133) one hundred and thirty-three feet to the corner of Cherry and Third streets; thence in a southwesterly direction along the line of said

premises and Third street to a point on said line (96) ninety-six feet from the corner of Cherry and Third streets; thence in a northwesterly direction to a point (109) one hundred and nine feet and (6) six inches from Third street and (96) ninety-six feet from Cherry street; thence southwesterly to a point (109) one hundred and nine feet and (6) six inches from Third street and (112) one hundred and twelve feet from Cherry street; thence northwesterly (23) twenty-three feet and (6) six inches to a point on the said dividing line between the said conveyed premises and the said premises of E. Witkawski (112) one hundred and twelve feet from the original starting point; thence along said dividing line northeasterly (112) one hundred and twelve feet to the original starting point. That portion of the property hereby conveyed which adjoins the property of the said E. Witkawski, fronting on Cherry street (23) twenty-three feet and (6) six inches and running back (112) one hundred and twelve feet is subject to a mortgage made by James A. Ralston to Wm. H. Ross fo (5,000) five thousand dollars:

To have and to hold the said bargained and described premises, together with all and singular the buildings, tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, unto the said George B. Turpin, his successors and lawful assigns, in fee simple.

26 In trust, nevertheless, for the sole and separate use, benefit, and enjoyment of the following-named children of the said George B. Turpin, viz., William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, without liability for the contracts, undertakings, or defaults of the said George B. Turpin or of any other person whomsoever: Provided, neverthess, That so long as the said James A. Ralston shall live he shall, by himself or through his duly authorized agents, retain possession of said property, and shall receive and enjoy the annual rents, issues, and profits of the same, less such expenses as may be incurred in the collection of the same and less the amounts that shall be paid for taxes, insurance, and repairs on said property, the meaning and intent of this deed of conveyance being that there is hereby conveyed to the said George B. Turpin, trustee as aforesaid, full and perfect title in fee simple to said property at this present date; but the possession of the said George B. Turpin, trustee, and of his said *cestui que trusts* is postponed, as well as the right to the income from the same, until the death of the said James A. Ralston. And the said James A. Ralston, for himself, his heirs, executors, and administrators, the above described and conveyed premises and every part and parcel thereof, with all the appurtenances thereunto belonging, unto the said George B. Turpin, trustee, his successors and assigns, against the said James A. Ralston, his heirs, executors, and administrators, and against the claim of all and every person or persons whomsoever, shall and will warrant and forever defend by virtue of these presents.

27 In witness whereof the said James A. Ralston hath hereunto set his hand and affixed his seal the day and year first above written.

JAS. A. RALSTON. [L. S.]

Signed, sealed, & delivered in the presence of Horace E. Jones and William H. Clarkson, as witness my hand and official seal this 19th day of April, 1881, *as witness my hand and official seal.*

[SEAL.] WILLIAM H. CLARKSON,
Commissioner for Georgia in New York.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 19th day of April, A. D. 1881, before me, William H. Clarkson, a commissioner of the State of Georgia in New York, residing in the city of New York, personally appeared James A. Ralston, to me personally known to be the individual named in and who executed the foregoing instrument, who acknowledged that he executed the same for the purposes therein named and mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal this 19th day of April, A. D. 1881.

WILLIAM H. CLARKSON,
Commissioner for Georgia in New York,
117 *Broadway N. Y. City.*

28 STATE OF NEW YORK, *County of New York:*

Know all men by these presents that I, Ida Ralston, wife of James A. Ralston, do, in consideration of five dollars, cash in hand paid me by George B. Turpin, trustee, as well as in consideration of the premises recited in a deed of conveyance this day made by the said James A. Ralston to the said George B. Turpin, trustee, to certain portions of lots (7) seven and (8) eight, in square (39) thirty-nine, in the city of Macon, county of Bibb and State of Georgia, do hereby ratify and confirm the said deed of conveyance and do hereby join in the execution of the same, hereby renouncing and conveying to the said trustee for the said uses all my right of dower and other right, title, or interest in and to said property.

In testimony whereof I have hereunto set my hand and affixed my seal this nineteenth day of April, eighteen hundred and eighty-one.

IDA RALSTON. [L. S.]

Signed, sealed, and delivered in presence of Horace E. Jones and William H. Clarkson, as witness my hand and official seal this 19th day of April, 1881, *as witness my hand and offiical seal.*

[COM'R'S SEAL.] WILLIAM H. CLARKSON,
Commissioner for Georgia in New York.

29 STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 19th day of April, A. D. 1881, before me, William H. Clarkson, a commissioner of the State of Geor-

gia in New York, residing in the city of New York, personally appeared Ida Ralston, to me personally known to be the individual named in and who executed the foregoing instrument, who acknowledged that she executed the same for the purposes therein named and mentioned.

And the said Ida Ralston, being duly examined by me separately and apart from her said husband, did declare that she did freely and voluntarily and without any compulsion from her husband sign, seal, and deliver the said instrument for the purposes therein mentioned, with the intention thereby to renounce, give up, and forever quitclaim all her right of dower and thirds and all her other interests of, in, and to the lands and tenements therein mentioned and conveyed.

In witness whereof I have hereunto set my hand and affixed my official seal this 19th day of April, A. D. 1881.

[Seal of Com'r.]

WILLIAM H. CLARKSON,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

GEORGIA, *Bibb County:*

Superior Court.

CLERK'S OFFICE, *August 6th*, 1883.

30 I certify that the eight (8) pages attached herewith is a correct transcript from the record of deeds in this office as the same appears in Book " E E," on folios 94, 95, 96, & 97, under date of April 25th, 1881.

[Seal of Sup'r Court of Bibb County, Ga.]

J. W. BLOUNT, *Dep. Clerk.*

Endorsement: No. 25. Circuit court of the United States of America for the western division of the southern district of Georgia. October term, 1883. Mrs. Ida Ralston, compl't, and George B. Turpin, trustee, *et al.*, def'ts. In equity. Bill (original). Filed in office this 7th day of August, A. D. 1883. H. H. King, clerk, by J. W. Nisbet, deputy. Lanier & Anderson.

Afterwards, to wit, on the seventh (7th) day of August, in the year of our Lord one thousand eight hundred and eighty-three, the clerk of the circuit court of the United States for the western division of the southern district of Georgia, by his deputy, issued a subpœna in the above-entitled cause, which said subpœna is in the words and figures following, to wit:

Subpœna.

31 UNITED STATES OF AMERICA, *Western Division, Southern District of Georgia,* } *ss:*

Mrs. IDA RALSTON, Complainant, *and* GEORGE B. TURPIN, Trustee, *et al.*, Defendants, } In Equity.

The President of the United States of America to George B. Turpin, trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, and to William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, and to each of them, Greeting:

For certain causes offered before the judges of the circuit court of the United States for the southern district of Georgia, western division, in equity, you and each of you are hereby commanded and strictly enjoined that, laying all other matters aside and notwithstanding any other excuse, you personally be and appear at the clerk's office of the said court, wheresoever the same shall then be, at rules to be had on the first Monday in October next, to answer to those things which shall then and there be objected to you in a bill of complaint to cancel two deeds, &c., filed by the complainant, and to do further and receive what the said court shall have con-
32 sidered in that behalf; and this you may in nowise omit under a penalty of five hundred dollars.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at Macon, in said district, this the seventh (7th) day of August, in the year of our Lord one thousand eight hundred and eighty-three, and of American Independence the one hundred and eighth.

[SEAL.]

H. H. KING, *Clerk*,
By J. W. NISBET, *Deputy.*

LANIER & ANDERSON,
Complainant's Solicitors.

MEMORANDUM.—The defendants are required to enter appearance in the above cause, in the clerk's office, on or before the day to which this writ of subpœna is returnable; otherwise the bill may be taken *pro confesso* against them.

H. H. KING, *Clerk*,
By J. W. NISBET, *Deputy.*

LANIER & ANDERSON,
Complainant's Solicitors.

Endorsement: In the circuit court of the United States for the southern district of Georgia. October rules, 1883. Mrs. Ida Ralston, complainant, and George B. Turpin, trustee, *et al.*, defendants. In equity. Subpœna in equity (original). Filed 7th day of August, A. D. 1883. H. H. King, clerk, by J. W. Nisbet, deputy. Lanier & Anderson, complainant's solicitors.

33 *Marshal's Return.*

I certify that I served the within subpœna in equity upon George B. Turpin, personally, Aug. 8th, 1883.

R. D. LOCKE,
U. S. Marshal,
By THOS. D. WELD, *Deputy.*

I certify that I this day served the within subpœna in equity on George R. Turpin, personally, by handing him a copy & exhibiting to him the original with the seal of the court thereon; and served Frank M. Turpin by leaving a copy at his place of business; and served Wm. C. Turpin and Walter H. Turpin by leaving copies of original at their place of residence.

Dated 11th day of August, 1883.

R. D. LOCKE,
U. S. Marshal.

Returned served August 13th, 1883.

J. W. NISBET,
Deputy Clerk.

Afterwards, to wit, on the 28th day of September, A. D. 1883, came Messrs. Bacon & Rutherford, attorneys-at-law, and entered their appearance as solicitors for the defendants in the words and figures following, to wit:

Precept for Appearance.

In the Fifth Circuit of the United States for the Southern District of Georgia, Western Division.

IDA RALSTON *vs.* GEORGE B. TURPIN, Trustee, *et al.*

Bill in equity.

34 To the clerk of said court:

You will please enter our names as appearing for the said defendants in said cause and as their solicitors of record in the same.

Respectfully, BACON & RUTHERFORD,
Sol's for Def'ts.

Sept. 28th, 1883.

Afterwards, to wit, on the first day of October, A. D. 1883, the following order was made by the court, to wit:

Order for Appearance.

United States Circuit Court, Southern District of Georgia. In Equity.

IDA RALSTON, Complainant,
and
GEORGE B. TURPIN, Trustee, *et al.*, Defendants.

On filing precept in this cause and on motion of Bacon & Rutherford—

Ordered that their appearance as solicitors for defendants herein be, and the same is hereby, entered, and that the cause be now docketed for said defendants.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this first day of October, A. D. 1883.

35 [SEAL.] MARION ERWIN,
Deputy Clerk.

Endorsement: U. S. circuit court, southern district of Georgia, W division. Oct. rules, 1883. Ida Ralston, complainant, and Geo. B. Turpin *et al.*, defendants. In equity. Precept for appearance and order thereon. Filed and entered this 1st day of Oct., 1883. M. Erwin, dep. clerk. Bacon & Rutherford, solicitors for defendant.

Afterwards, to wit, on the fifth (5th) day of November, A. D. 1883, came the above-named defendants, by their solicitors, Messrs. Bacon and Rutherford, and filed their demurrer to the bill heretofore filed in this case; which said demurrer is in words and figures following, to wit:

Demurrer.

In the 5th Circuit Court of the United States for the Western Division, Southern District of Georgia. In Equity.

IDA L. RALSTON, Compl't,
and
GEORGE B. TURPIN, Trustee Wm. C. Turpin *et al.*, *cestui que trust*, Def'ts.

36 These defendants, respectively, by protestation, not confessing or acknowledging all or any of the matters and things in complainant's bill to be true in such manner and form as the same are therein set forth and alleged, do demur thereto, and for cause of demurrer shew—

1st. That the said Ida L. Ralston is not a proper party complainant in said bill and has no right to bring said bill, for that it ap-

pears by the said complainant's said bill, as therein stated, that the said testator, Jas. A. Ralston, in said bill named did in his lifetime duly make and execute his last will and testament, disposing of his entire estate, real and personal, and nominating and appointing George B. Turpin and Thos. L. Massenburg, of said county of Bibb and southern district of Georgia, western division, the executors of the same, whose duty in the premises and under the law it is to take possession of and recover all the estate, real and personal, of the said testator, James A. Ralston, for the payment of his debts and for distribution to the legatees and devisees in said will named; and the said Ida L. Ralston, complainant, has not in and by her said bill stated, charged, or shewn any matters or things why the said George B. Turpin and Thos. L. Massenburg, they or either of them, are not the proper parties or party for the taking possession of all the property, real and personal, of said estate and for the institution of all proper proceedings for the recovery of the possession of any portion of the same; and, further, that the said Ida L. Ralston, complainant, has not in and by her said bill stated, charged, or

37 shewn any matters or things why she, the said Ida L. Ralston, is entitled to bring the said bill of complaint as the complainant therein.

2d. That George B. Turpin and Thos. L. Massenburg, of the western division, southern district of Georgia, are, as appears by the allegations in said bill of complaint, necessary and proper parties complainant in the said bill or any other proceedings for the recovery of any portion of the estate, real or personal, of the said James A. Ralston, for that it appears by the complainant's said bill, as therein stated, that the said testator, Jas. A. Ralston, in said bill named did in his lifetime duly make and execute his last will and testament, disposing of his entire estate, real and personal, and nominating and appointing George B. Turpin and Thos. Massenberg aforesaid as the executors of the same, whose duty in the premises and under the law it is to take possession of and recover all of the estate, real and personal, of the said testator, Jas. A. Roberts, for the payment of his debts and for distribution to the legatees and devisees in said will named; and the said Ida L. Ralston, complainant, has not in and by her said bill stated, charged, or shown any matters or things why the said George B. Turpin and Thos. L. Massenburg, they or either of them, are not the necessary and proper parties or party for the taking possession of all the property, real and personal, of said estate and for the institution of all proper proceedings for the recovery of the possession of the same or any portion thereof.

38 3d. That, under the allegations in said bill of complaint and the exhibits thereto, it appears that the deed of conveyance, for the cancellation of which the said bill was brought, was freely and voluntarily executed by the said Ida L. Ralston, and that by reason of the same the said Ida L. Ralston, the said complainant, is estopped from denying the validity of the said deed of conveyance, and has not by her said bill shown such a case as entitles her to the relief prayed thereby.

4th. That the said complainant has failed to attach to her said bill of complaint and as an exhibit thereto a copy of the said last will and testament of the said testator, James A. Ralston, as required by the rules of equity pleadings of force in this said court, an exhibit of which is important and essential to the defence, the defendants, respectively.

5th. That the said complainant has not in and by her said bill shewn any right and title whatsoever to compel these defendants to answer said bill or to have any decree against these defendants under the same.

6th. That there is no equity in said bill of complaint.

7th. That the said complainant has not in and by her said bill made or stated such a case as does or ought to entitle her to any such relief as is thereby sought and prayed for from or against these defendants, respectively.

39 Wherefore and for divers other errors and imperfections appearing in the said bill these defendants, respectively, pray the judgment of this honorable court whether they shall be compelled to make any further or other answer to the said bill or any of the matters and things therein contained, and pray to be hence dismissed with their reasonable costs in this behalf sustained.

BACON & RUTHERFORD,
Def'ts' Solicitors.

Endorsement: No. 25. In the 5th circuit court of the U. S. for western division, southern district of Georgia. Ida L. Ralston, compl't, and Geo. B. Turpin, trustee, *et al.*, def'ts. In equity. Bill for cancellation. Demurrer of def'ts to bill. Filed Nov. 5th, 1883. J. W. Nisbet, deputy clerk. Bacon & Rutherford, sol's for def'ts.

Afterwards, to wit, on the 7th day of January, A. D. 1884, came the within-named complainant, by her solicitors, Messrs. Lanier & Anderson, and filed her exceptions to the demurrer of defendants; which exceptions are in the words and figures following, to wit:

Exceptions to Demurrer.

40 In the Fifth Circuit Court of the United States for the Southern District of Georgia, Western Division.

IDA L. RALSTON, Compl't,
vs.
GEORGE B. TURPIN, as Trustee of Wm. C. Turpin *et al.*, *cestui que trust*, Def'ts.

Bill in equity.

And now, at January rules, 1884, comes the complainant in the above-stated case, by her solicitors, Lanier & Anderson, and makes and files the foregoing exceptions to the paper purporting to be a demurrer of the said defendants, now of file in the clerk's office of said court, and of which she, complainant, had no notice or knowl-

edge till the present rules day, although her solicitors had made application at said office for information as to the state of the pleadings in said cause:

1st. Complainant excepts to the sufficiency of said demurrer in this, that there is no certificate of the solicitors or counsel of defendants that, in his or their opinion, the said demurrer is well founded in point of law, as required by the rules of court.

2d. Complainant further excepts to said demurrer upon the ground that the said demurrer is not supported by the affidavit of defendant- or either of them that said demurrer is not interposed for delay; and the said complainant denies the sufficiency and
41 truth of the said demurrer and of each and every ground thereof, and has not at any time since the filing of said demurrer admitted or intended to admit the sufficiency thereof, and, especially, complainant does not admit, but denies, the sufficiency of said demurrer in this, that said bill charges a fraud on the part of the said George B. Turpin, named as trustee, defendant in said bill, in procuring the deed of trust sought to be set aside therein, and the said demurrer is not accompanied with any plea to such part of said bill, and no answer fortifying such plea.

Complainant asks that the said demurrer be set down to be argued and such action taken on the pleadings in said cause as the court may adjudge proper.

January rules, 1884.

LANIER & ANDERSON,
Compl't's Solicitors.

Endorsement: No. 25. In fifth circuit court of United States for southern district of Georgia, western division. Mrs. Ida L. Ralston *vs.* George B. Turpin, as trustee of Wm. C. Turpin *et al.* Exceptions to demurrer. Filed in office Jan'y 7th, 1884. J. W. Nisbet, deputy clerk. Lanier & Anderson.

Afterwards, to wit, on the 6th day of May, A. D. 1884, on
42 motion of Bacon & Rutherford, solicitors for defendants, the court passed an order allowing the said defendants to withdraw their demurrer previously filed in said cause; which said order is in the words and figures following, to wit:

Order Allowing Defendants to Withdraw Demurrer.

In the 5th Circuit Court, Western Division, Southern Dist. of Ga.

IDA RALSTON *vs.* GEO. B. TURPIN, Trustee, *et al.*

Bill.

Upon motion of defendants' counsel in the above-stated case it is ordered that the def'ts have leave to withdraw their demurrer in said case and have sixty days from the adjournment of court within which to file an answer in said cause.

In open court May 6th, 1884.

JAS. W. LOCKE, *Judge.*

Endorsement: No. 25. In the U. S. cir. court, western division, so. dist. of Georgia. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Order for leave to def'ts to withdraw demurrer, &c. Filed May 6th, 1884. M. Erwin, deputy clerk.

Afterwards, to wit, on the 6th day of May, A. D. 1884, came
43 the within-named complainant, by her solicitors, Messrs Lanier & Anderson, and filed an amendment to her original bill in the words and figures following, to wit:

Amendment to Original Bill.

In the Fifth Circuit Court of the United States for Western Division of the Southern District of Georgia. In Equity.

MRS. IDA RALSTON

vs.

GEORGE B. TURPIN, as Trustee for his Children *et al.*

And now comes the complainant, Ida Ralston, and, after leave of the court first had, amends her bill in the above-stated case, to come in in connection with the charging part of said bill, as follows:

Your oratrix further charges that by reason of the excessive use of intoxicating liquors the said James A. Ralston had at the time of signing the said deeds of gift of said property therein described become greatly weakened in body and mind and so continued from the same cause up to the time of his death; that at the time he signed said deeds the habit of such excessive use of intoxicating liquors was fixed upon him, and his mind thereby became so weak and infirm as to render him incapable, and he was not then capable of attending to business, nor did he attend to any at that time; and your oratrix charges that when he signed said deeds of gift (more fully described in said original bill) he was incapable
44 of comprehending and did not in fact comprehend the nature and importance of the transaction, but by reason of his weak and infirm condition as aforesaid he yielded to the influence and persuasions of the said George B. Turpin, whose power over him was so great that he, said James A., was in the habit of doing whatever the said Turpin desired him to do in respect to matters relating to his property or business.

When your oratrix signed her apparent consent to said deeds of gift as therein shown she also acted under the influence of said Turpin. She feared to oppose him in anything because, knowing his power over her husband, she feared to offend him lest he might either work a separation between her and her said husband or render their relations with each other insecure and unhappy. She, moreover, felt that as he had charge of all her husband's property and business affairs they were largely dependent on his favor; in fact, that she and her said husband were both dependent on his good will; besides, she did not then know that said deeds of gift embraced by far the most valuable part of her husband's remaining property,

the said Turpin representing the contrary to be the fact. She and her husband were both overreached and deceived by the said Turpin and yielded because they were in effect powerless to resist.

LANIER & ANDERSON,
Compl't's Sol's.

45 Endorsement: No. 25. In United States circuit court, southern district of Georgia, western division. Mrs. Ida Ralston *vs.* George B. Turpin, trustee, *et al.* Amendment to original bill. Filed May 6th, 1884. Marion Erwin, deputy clerk. Lanier & Anderson.

Service of copy of the above amendment acknowledged. May 6th, 1884.

BACON & RUTHERFORD,
Sol's for Def't Turpin.

By consent of counsel this amendment filed. May 6th, 1884.

JAS. W. LOCKE, *Judge.*

Afterwards, to wit, on the 11th day of July, A. D. 1884, came George B. Turpin, trustee, one of the defendants within named, by his solicitors, Messrs. Bacon & Rutherford, and filed his separate answer to said bill, which answer is in the words and figures following, to wit:

Answer of George B. Turpin.

46 In the 5th Circuit Court of the United States for the Western Division, Southern District of Georgia. In Equity.

IDA RALSTON *vs.* GEORGE B. TURPIN *et al.*

Separate answer of George B. Turpin, as trustee, &c.

This respondent, reserving to himself all manner of exceptions to the many errors, uncertainties, and imperfections of the above-stated bill, and for answer thereto, or to so much thereof as he is advised and believes it is material to answer, says:

The names of respondent's children in life are correctly given. Lizzie Turpin, one of the beneficiaries mentioned in the deed made by James A. Ralston to respondent, as trustee for his children, died since the making of the deed and before the filing of this bill.

The allegations in the bill as to the citizenship of the parties and to the marriage of complainant with James A. Ralston are correctly stated.

The allegations as to the will of said Ralston—that is, as to its contents—respondent believes to be true. The complainant has the will in her possession, and refuses to surrender it either to respondent or to the court of ordinary of Bibb county, State of Georgia, for

probate, altho' respondent is appointed in said will as one of the executors and demand for said will has been made upon said complainant in order that it might be duly probated.

47 Respondent shows that during the lifetime of James A. Ralston, Senior, the father of complainant's husband, he attended to a large part of his business, and in addition to his close business relation respondent possessed the friendship & confidence of the said James A. Ralston, Sr., up to the time of his death, in 1865, as well as the confidence and friendship of his family. After the death of the said James A. Ralston, Senior, the legal representative of his estate, Mr. Thornton, who resided in the city of Columbus, appointed respondent under a power of att'y to attend to all the business of said estate, such as collecting rents, renting out the property, and keeping the same in repair. The bulk of the property of said estate consisted of real estate in the city of Macon, where respondent then resided and still resides; practically gave respondent the management of said estate, all of which duties respondent discharged to the satisfaction of all concerned. In 1867 James A. Ralston, Junior, the husband of compl't, being then a full grown man in everything except age, being about nineteen years of age, on his own motion and without any solicitation on the part of respondent, selected this respondent as his guardian, and who was duly appointed as such by the ordinary of Bibb county on the second day of August, 1867.

48 Respondent shows that he managed the property of the said James A. Ralston, Jr., from the time of his appointment as guardian until the said Ralston became of age, in 1869, when respondent had a full, complete, and formal settlement with the said Ralston, turning over to him his entire property & accounting for all of its rents, issue, and profits, the said Ralston being well pleased with the care, protection, and management of his property by respondent. On the 3d day of May, 1869, respondent received his letters of dismission from said guardianship from the court of ordinary of Bibb county.

After respondent was discharged from said guardianship the firm of Turpin & Ogden, real estate agents in the city of Macon, of which firm respondent was a member, was employed by the said James A. Ralston, Jr., to rent out & collect the rents for his real estate situated in the city of Macon, which they continued to do up to the time of said Ralston's death.

It is true that during all of this time the said James A. Ralston, Jr., by reason of the friendly relation which had always existed between the said Ralston, his family, and this respondent, relied upon respondent as the particular member of the firm of Turpin & Ogden to look after this property, to preserve it and collect the rents.

49 Respondent shows that the provision made by James A. Ralston for himself and children was freely & voluntarily made, without any persuasion or solicitation on the part of respondent, not even a suggestion or intimation to this effect was ever made at any time or in any way to the said Ralston by this respondent. In fact, the intention to make said provision existed long before the

said Ralston even intimated the same to respondent, for he shows that when Mrs. Aurelia L. Bozeman, the mother of the said James A., made her will she stated to respondent the friendship she and her family entertained for him and the confidence they had in him and the appreciation and regard they had for the manner in which respondent had ever acted towards the family, and then gave as a reason why she had not made any provisions for him in her will was because her son, the said James A., either had or would make provision for respondent in his will. Respondent never mentioned to the said James A. what his mother had told him, and some years after this, without the least intimation, suggestion, persuasion, or solicitation, the said James A. made his will, to wit, on the 11th day of May, 1874, in which he directed his property to be divided into two equal parts and willed one-half of the same to respondent, as trustee for his aunt, Mrs. Laura R. Smith, and her children, and the other half to respondent, in trust for himself and children, a copy of which will is hereto attached, marked Ex. A., with the usual leave of reference. Respondent shows that some years after this will was made the said James A., of his own free will and without the least suggestion from respondent, made another will on the 15th of December, 1879, in which will the same property described in
50 the deeds attached to complainant's bill was bequeated to respondent in trust for certain children of respondent, being the same children mentioned in said deeds. The will of 1874 included all of respondent's children, born and to be born.

One of respondent's children had displeased the said James A., and hence in the will of 1879, as well as in said deeds, this child was omitted. If respondent had ever been consulted in the matter he certainly would have expressed a desire that all his children should share equally in the bounty of the said James A., for the one omitted was as dear to respondent as any of the others. A copy of the will of 1879 is hereto attached, marked Ex. B., to which the usual leave of reference is prayed. Respondent shows that James A. Ralston, like most young men who have plenty of money and no business occupation and of a noble and generous disposition, was at a very early age *was* disposed to be wild, and, as was usual and customary, frequently joined other young men in a social glass. Respondent did, by reason of his friendship for his family and for the said James A. himself, exert all the influence he had to prevent him from running into excesses of all kinds, but did not have sufficient influence to protect him against evil habits and evil associates, for respondent shows that years before the marriage of the said James A. Ralston with the said compl't that she, the said compl't, was an inmate of a lewd house in the city of Macon and had obtained in some way a most wonderful and mysterious influence over the said James A., leading him into the most extravagant excesses and dissipa-
51 tion, and which, coming to the ears of his friends, caused much disagreeable talk and which reflected considerably upon the character of the said James A.

Respondent admits that he did exert all the influence he had with the said James A. to induce him to break of- all connection with the

said complainant, for, being at the time an inmate in a lewd house, respondent did not regard her as a fit associate for the said James A., and that her influence over him was for evil and not for his good; and all the relations and friends of the said James A. entertained the same opinion as respondent, and were also earnestly solicitous that all connection between the two should be broken off.

Respondent shows that the influence of the said complainant over the said James A. was much greater than his, for she finally persuaded him to go with her to the State of New York, and then by the exercise of undue and improper influence persuaded the said James A. to marry her, which marriage took place in New York city some time in 1880, altho' neither respondent nor any of the relatives or friends of the said James A. had any positive knowledge of it until some time in the summer of 1880. Respondent was at Saratoga in the month of August, 1880, when he received what he regarded as reliable information that the compl't had really married the said James A., whereupon respondent went immediately to where the said James A. & compl't were then living in Stamford, Conn., to see for himself if it could be true and what could be done
52 about it, still cherishing the hope that there might possibly be some mistake or that the marriage was not legal and binding. Upon arriving at the house where they were staying both James A. and the said compl't informed him that they were married legally. Respondent did not upbraid or reproach either of the parties. Compl't then informed this respondent that she was associating with some of the best and most respectable people of the town, who knew nothing of her former character, and asked this respondent to keep secret her former life. Respondent assured her he would certainly do so, and that, since they were married, he would do whatever he could to add to their happiness. While at the house of the said James A. and in the presence of the said compl't respondent remarked to the said James A. that his marriage revoked the will he had made, which bequeathed certain property to respondent's children, and that, as he had for some time past expressed a desire that his children should have this property, whether he still desired they should have it; whereupon the said James A. unhesitatingly replied that it was his desire and had been for some time that his children should have this property. Respondent then asked if he was willing to make a deed conveying the present title, but reserving the use of the property to himself until his death. He, the said James A., at once, without hesitation, replied that he would do so with pleasure. The compl't readily assented and expressed
53 herself perfectly willing to sign the deed. There was no persuasion of any kind or in any shape, and this was the first time that respondent had ever spoken to the said James A. as to his intention to give this property to his children.

Mr. Ogden was at that time on a visit to relatives in the same town, and it was suggested that the said James A. and compl't should go with Mr. Ogden to Bridgeport, where it was thought a commissioner of deeds for Georgia could be found, and have said deed executed. Whereupon the parties went to Bridgeport, but find-

ing no Commissioner the deed was not executed. As respondent intended to return to New York, both the said James A. and the compl't voluntarily and cheerfully agreed and proposed to accompany respondent as far as New York, which they did, and signed the deed to the same property bequeathed in the will of 1879, and to the same children of respondent. This deed was signed freely and voluntarily, both by the said James A. and the compl't, without any persuasion whatever, a copy of which deed is hereto attached, marked Ex. C, with the the usual leave of reference prayed. This is not one of the deeds attached to compl't's bill. This deed was executed on the 26th day of August, 1880. It was ascertained that there was some informality in the deed; whereupon another was drafted, and the said James A. and the said compl't freely and voluntarily signed this second deed on the 28th of August, 1880, a copy of which is hereto attached, marked Ex. D.

54 Some time after this, while in Macon, respondent's attorneys, on their own motion, suggested that this second deed was not drawn properly. Respondent then requested them to draw a deed to the same property, which they did, which deed respondent sent to the said James A. while he was still at the North, which deed was properly signed and executed, both by the said James A. and the compl't. Respondent certainly did not use any persuasion to induce either of said parties to sign said deed, for when the same was executed respondent was in Macon, Georgia, and the said parties in New York city.

The deed, after being signed, was returned to respondent by the said James A., a copy of which is attached, marked Ex. E. From this time on, up to the death of the said James A., in 1883, respondent never heard of the slightest dissatisfaction as to the signing of said deeds.

Respondent denies that at any time he made any comparison as to the value of the property deeded to his children with the remaining property, either to the said James A. Ralston or to the compl't. The said James A. was as well acquainted with his own property as this respondent was. Respondent shows that the allegations in compl't's bill that he exercised an undue influence over her cannot possibly be true, for when he first met complainant after her marriage he assured her, by reason of his kind feelings and friendship for the said James A., he would do anything he could to add to their happiness. In a short time after said marriage the compl't began

55 to complain that the said James A. had treated her cruelly, and threatened to leave him. The said James A. complained upon his part that the said compl't had treated him in a most shameful and heartless manner, beating him and otherwise mistreating him. Respondent advised the said compl't to deal kindly with the said James A., and instead of doing or saying anything to separate them, recognizing that their marriage was valid and legal, he did all in his power to reconciliate them to each other, and counseled the said compl't to be patient & forgiving. While respondent would have done for the sake of the family and for his friendship for the said James A. all that he could to prevent the marriage, yet,

after they became man and wife, he felt he had no authority or right to interfere. These quarrels between the said James A. and compl't were frequent and continuous, and of a most violent character. The said James A. would at times telegraph to respondent not to send any more money to his wife, and would speak of her to respondent in language of the strongest abuse, and this was even done in the presence of compl't while she was narrating the wrongs she had suffered. Therefore respondent says that compl't had no fears that he would attempt to separate her husband, for she knew the efforts this respondent had made to induce them to live peacefully together, and that he had advised her against separation at a time when she threatened to do so.

56 Respondent shows that the mother of the said James A. appointed him her executor of her last will and testament, together with her husband, Dr. Bozeman, and, notwithstanding the bulk of the property was left to the said Dr. Bozeman, he permitted this respondent to qualify as sole executor and to manage and wind up the whole estate. The ordinary of Bibb county allowed this respondent as such executor the sum of about five thousand dollars as his commissions for turning over the estate to the legatees under said will, and while Dr. Bozeman paid $2,000.00 as his part of said sum to respondent, yet he did not collect a cent of it from James A. Ralston, the other legatee. Respondent shows that while the said James A. had a large income, yet, by reason of the evil influence he was under, he spent large sums of money, frequently beyond his income, and then would call upon respondent to advance him money, which respondent did. Respondent shows that while Ogden & Turpin, as real estate agents in Macon, collected the rents and attended to the renting out of the property of the said James A. situated in Macon, they charged him less commission than they did some other parties for whom they performed like services. Respondent says it is true that while the property willed and deeded to his children was encumbered by a lien of five thousand dollars, yet the said James A. frequently remarked to respondent, without any

57 suggestion or allusion being made by respondent, that he intended to leave the property free of all incumbrances, and when the said James A. sold some real estate in Macon for $20,000.00 he of his own accord paid or directed to be paid twenty-five hundred dollars of this money on the said five-thousand-dollar lien, saying at the same time that he had use for the balance of the money, and were it not for this he would have paid the whole of it, and respondent believes he would have done so had he lived, but he died leaving said property encumbered by a lien of twenty-five hundred dollars, besides the accumulated interest.

As to the settlement made with Mrs. Laura R. Smith respondent shows that Mrs. Smith was a sister of James A. Ralston, Senior, the father of James A. Ralston, Junior, and from whom he inherited all of his property. The said James A. Ralston, Senior, had the settlement & winding up of his father's estate, and Mrs. Smith claimed that he had never settled with her, and that most of the property which had descended to James A. Ralston, Junior, and his mother

was the identical property which had been owned by the father of Mrs. Smith and James A. Ralston, Senior. The claim was upon the property then owned by James A. Ralston, Jr., & Dr. Bozeman. James A. Ralston, Jr., constituted respondent his agent to bring about a settlement of the matter amicably if it could be done; if not, to have it litigated in the courts. Respondent, after examin-
58 ing the papers of James A. Ralson, Senior, together with Dr. Bozeman, became satisfied it was best to settle with Mrs. Smith, but would not act upon his own judgment, but after consulting with Dr. Bozeman, one of the parties interested, and with Col. H. J. Lamar, a man of excellent judgment and great business experience, both of these gentlemen advised a settlement by all means; therefore respondent thought that if Dr. Bozeman, a man of large experience himself and one of the first physicians of the city of New York; and being one of the parties interested and who had to pay his part of the settlement, was not only willing but anxious for a settlement, that it was the best thing that could be done under the circumstances for the interest of the said James A., especially as respondent had come to the conclusion after examining the papers of the said James A. Ralston, Senior.

Respondent shows that both wills already alluded —, as well as the two first deeds made (herein described), were signed long before Mrs. Smith had set up her claim, and that the last deed was written and forwarded to New York before she dislosed the nature of her demand. Respondent was not controlled or influenced by anything he did in any manner, shape, or form by anything Mrs. Smith said or did, but the settlement was made conscientiously and as he believed for the best interest of the said James A. Respondent shows that in this matter he never did anything without first consulting the said James A. Ralston, and that he never agreed to the
59 terms of the settlement until he first submitted the same to said James A., and respondent shows that both compl't and the said James A. consented to and agreed to the said settlement and signed the same.

Respondents says that while it is true that James A. Ralston did at times drink to excess and while under the influence of liquors was in the same condition of every other man similarly situated, yet when sober or only drinking moderately he was in the full possession of all his faculties and as rational as any man.

Respondent shows that at the time the said James A. Ralston signed the first two deeds he was perfectly sober and perfectly rational and was accompanied by the compl't on both occasions, who joined in the deeds with the said James A. This respondent knows of his own knowledge the last deed was signed by the said James A. and compl't in New York city, while respondent was in the city of Macon, and, while respondent was not present at the time, he is informed and believes that the said James A. was perfectly rational at the time of signing the same. The said James A. afterwards, when sober, referred to said deed & recognized the same. Some years after the said wills had been made and after all three of said deeds were made to respondent, as trustee, the said James A.

made to compl't a deed to two valuable stores in the city of Macon, the rents of which she received in her own right and name up to the death of the said James A. and since.

The said will spoken of in said bill was made by James A. Ralston long after the two wills, which made respondent's children
60 legatees, as well as after the three deeds which left them certain property in the city of Macon. Under this will the compl't claims the whole of the estate left by the said James A., to wit, in addition to the two brick stores deeded her in his life, two other large and valuable stores, as well as another store and warehouse, all situated in the city of Macon, and his interest in the plantation in Southwest Georgia and two lots of land in Cherokee.

Respondent is, therefore, in view of these facts, unable to understand how the compl't can consistently allege that the said James A. was "incapable of comprehending the nature and importance" of transactions of this sort.

Now, having fully answered, this respondent prays to be discharged with his reasonable costs.

BACON & RUTHERFORD,
Sol'rs for Geo. B. Turpin, Trustee.

STATE OF GEORGIA, *County of Bibb:*

Personally appeared George B. Turpin, who, being duly sworn, deposes and says that the facts set forth in this answer are true so far as the same depend upon his own knowledge, and so far as derived from the knowledge or information of others he believes — to be true.

GEO. B. TURPIN.

Sworn to and subscribed before me this 11th day of July, 1884.
L. M. ERWIN,
Deputy Clerk U. S. Circuit Court.

61 EXHIBIT "A."

In the name of God, amen. I, James A. Ralston, of the county of Bibb and State of Georgia, being in good bodily health and of sound and disposing mind and memory, and being desirous to settle my worldly affairs while in said state of mind and body, I have the strength and discrimination so to do, do make, ordain, and publish this my last will and testament, hereby revoking and annulling all wills by me at any time heretofore made.

Item 1st. I direct that my body be properly buried and that a monument suitable to my condition and circumstances in life be erected over the same, and I request that my friend, Geo. B. Turpin, and his children after him will see to it that my monument and grave shall always during their lives be suitably kept and cared for.

Item 2d. My just and lawful debts contracted since my majority I direct shall be paid as soon as practicable after my death by my hereinafter-named executors.

Item 3d. The entire balance and remaining portion of my property I will and devise shall be divided into two equal portions, which I will and bequeath for the trusts and uses hereinafter specified. In making such division I desire that my property be divided in kind and that none of it be sold except such part of the same as it may be necessary to sell for the purpose of equalizing said division.

62 The one equal part I give and bequeath and devise to George B. Turpin, of said county of Bibb, to be held by him in trust for the sole benefit and use of my aunt, Mrs. Laura R. Smith, and her children, James R. Smith, Annie L. Smith, Daisy Smith, and Charles Smith, during the natural life of the said Mrs. Laura R. Smith, and after her death for the joint and sole use and benefit of the said James R. Smith, Annie L. Smith, Daisy Smith, and Charles Smith during the life of him or her who shall longest survive, and upon the death of the last survivor said trust shall cease and said property shall vest in the heirs-at-law of the said named four children of Mrs. Laura R. Smith; but during the continuance of said trust, as either the said James R. Smith, Annie L. Smith, Daisy Smith, or Charles Smith shall die, his or her heirs-at-law shall be substituted in said use & enjoyment of said trust in his or her stead.

The other equal part of my property herein provided for I give and bequeath and devise to George B. Turpin, of said county of Bibb, to be held by him in trust for the sole benefit and use of the said George B. Turpin and his children, born and to be born, for and during the natural life of the said George B. Turpin, and at his death said trust to cease and the said property vest in the children of the said George B. Turpin who shall be in life at the time of his death, the descendants of any such children not then in life to share in such division per stirpes, it being the intention and design of this my will that all the divisions provided for in each of

63 said trusts (the one for the benefit of Mrs. Laura R. Smith and her children as well as the one for the benefit of George B. Turpin and his children) the descendants and heirs of children shall take per stirpe, and it being the further intent and design of this my will that during the continuance of either of said trusts there shall be no division or sale of the property embraced in said trust, and that said property shall not be liable for the contracts, debts, or defaults of any of said *cestui que trusts* or of any other person whomsoever.

Item 4th. I hereby constitute and appoint George B. Turpin and J. Munroe Ogden my executors of this my last will and testament.

In witness whereof I, the said James A. Ralston, to this my will and testament, the same being my last and consisting of the foregoing three pages, have, in the presence of the subscribing witnesses, set my hand and seal this (11th) eleventh day of May (1874), eighteen hundred and seventy-four.

(Signed) JAS. A. RALSTON. [L. S.]

Signed, sealed, published, and declared, at the city of Macon, Georgia, by the above-named James A. Ralston, as his last will and testament, in the presence of us, who, at his request, each in the presence of said testator and in the presence of each of the other, have subscribed our names as witnesses hereto this (11th) eleventh day of May (1874), eighteen hundred and seventy-four.

(Signed) J. MUNROE OGDEN.
JAMES F. NISBET.
A. O. BACON.
ALECK BLOCK.

64 EXHIBIT "B."

STATE OF NEW YORK, *City and County of New York:*

I, James A. Ralston, being of sound, disposing mind and memory, and being fully aware of the uncertainty of life and desiring to dispose of all of the property of which I may die seized and possessed, doth make, publish, and declare the following as my last will and testament, hereby revoking and annulling all other wills heretofore made by me.

Item 1st. First, I desire that all of my just debts be paid.

Item 2d. Second, I desire that my body be buried in a suitable and Christian-like manner in Rose Hill cemetery, Macon, Ga., and that a marble monument, not to exceed in cost the sum of one thousand ($1,000) dollars, shall be erected on the spot where marks the place of my last repose in the family burying ground.

Item 3d. Third, I give and bequeath unto Geo. B. Turpin, of the city of Macon, Bibb county, Georgia, in trust for his children—Wm. C. Turpin, Frank M. Turpin, George R. Turpin, Lizzie Turpin, and Walter H. Turpin—all of the following-described property, to wit: The entire building known as Ralston Hall, situated at the corner of Cherry & Third streets, Macon, Ga., together with the stores
65 which adjoins said theatre building and known as Nos. sixty-six (66), sixty-eight (68), seventy (70), subject only to such liens and incumbrances as may be created thereon during my lifetime.

Item 4th. Fourth, I give and bequeath unto Ida Blanchard, by which name she is now known, and whose original name was Sarah or Sally Harten, formerly of Philadelphia, Pa., all of the following-described property, to wit: The four (4) stores fronting on Third St., Macon, Georgia, beginning at and including the first store adjoining the said theatre building, said four stores being numbered respectively as follows: Number fifty-three (53), number fifty-five (55), number- fifty-nine (59) and sixty-one (61) Third street, No. fifty-seven being the entrance to the theatre on 3d St., and is also included. I also give to said Ida all of my watches and jewelry of every description and of which I may die seized and possessed of.

Item 5th. Fifth, I give and bequeath unto my aunt, Mrs. Laura R. Smith, for and during the term of her natural life, and at her death to her children, James R. Smith, Annie Smith, Daisy Smith,

and Charles Smith, in fee simple, all of my undivided one-half interest in the premises known as the Ralston mansion house, situated in said city of Macon, Georgia.

Item 6th. Sixth, I give and bequeath unto my grand-
66 mother, Mrs. Mary Ann Lamar, all of the family pictures of which I die seized and possessed for and during her natural life, and at her death to my friend, Geo. B. Turpin, of Macon, Ga., having enjoyed his friendship for a long course of years. I feel that they will be safe and kept intact in his hands.

Item 7th. Seventh, I give and bequeath unto my friend, J. Munroe Ogden, of the city of Macon, Ga., all of the household furniture of every description whatever now owned by me and at present in the Ralston mansion house, in the city of Macon and State of Georgia.

Item 8th. Eighth, I hereby constitute and appoint as executors of this my last will and testament my friends, J. Munroe Ogden and Thomas L. Massenburg, of Macon, Ga., and I desire that the necessity of making an inventory and returns to the court where this will is to operate shall be dispensed with.

This the 15th day of December, 1879.

(Signed) JAS. A. RALSTON,
State, County, and City of New York.

Signed, sealed, declared, and published by James A. Ralston as his last will and testament in the presence of us, the undersigned, who subscribed our names hereto in the presence of said testator, at his special instance and request, and in the presence of each other.

67 This the 15th day of December, 1879.

(Signed) H. HORNE, *Macon, Ga.*
HORACE E. JONES,
756 *Broadway, N. Y.*
JAS. EDW'D GRAYHILL,
Att'y-at-Law, 317 *Broadway, N. Y.*

EXHIBIT "C."

STATE OF CONNECTICUT, *Fairfield County:*

This indenture, made this the twenty-sixth day of August, eighteen hundred and eighty, between Jas. A. Ralston, of the county and State aforesaid, of the first part, and George B. Turpin, as trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, Lizzie Turpin, and Walter H. Turpin, of the county of Bibb and State of Georgia, of the second part, witnesseth:

That the said James A. Ralston, for and in consideration of the sum of five dollars cash in hand paid to him by the said George R. Turpin, trustee as aforesaid, at and before the signing and delivery of these presents, the receipt of which is hereby acknowledged, hath given, granted, bargained, sold, conveyed, and confirmed, and by these presents doth bargain, grant, sell, convey, and confirm, unto said George B. Turpin, trustee as aforesaid, and his successors

in said trust, all of the following-described property, to wit:
68 All those lots or parcels of land situate, lying, and being in the city of Macon, county of Bibb and State of Georgia, known as Ralston Hall, being at the corner of Cherry and Third streets in said city, together with the stores and the lots adjoining in which the same are situated and formerly known as numbers sixty-six (66), sixty-eight (68), and seventy (70), Cherry street; the said lots adjoining the said Ralston Hall, and which at the date of this indenture are occupied by William F. Grace, J. M. W. Christian, and Felix Corput; the store adjoining said Felix Corput being now vacant, and the stores under said Ralston Hall being now occupied by Johnson and Harris; the property hereby conveyed being all of the property on Cherry street beginning at and including the store-house occupied by said William F. Grace and running on Cherry street to the corner where said street intersects with Third street; thence along said Third street to the first store adjoining said Ralston Hall, which said store on Third street is not included in this conveyance. The property hereby conveyed is sold with the condition and understanding that so long as the said James A. Ralston, party of the first part, shall live he is to receive annually all of the rents, issues, and profits of said described property, less such expenses as may be incurred in the collection of the same and such sums as may be paid for repairs, taxes, and insurance; and so
69 soon as the said James A. Ralston shall die, then the aforesaid property absolutely and in fee simple — to said George B. Turpin, trustee as aforesaid, and his successors. This deed is also made subject to a mortgage made by said James A. Ralston to William H. Ross for five thousand dollars on the store occupied by W. F. Grace:

To have and to hold said bargained property-, with its rights, members, and appurtenances and belonging, to the only proper use, benefit, and behalf of him, the said George B. Turpin, trustee as aforesaid, his successors, forever in fee simple.

And the said James A. Ralston the said described property unto the said George B. Turpin, trustee as aforesaid, his successors, *he* will warrant and forever defend against the claim of himself and against the claim of all other persons whatsoever.

In testimony whereof the said James A. Ralston hath hereunto set his hand and affixed his seal the day and year first above written.

(Signed) JAS. A. RALSTON. [SEAL.]

Signed, sealed, and delivered in the presence of—
(Signed) CHAS. EDGAR MILLS.
WILLIAM D. WARD.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 26th day of August, A. D. 1880, before me, Charles Edgar Mills, a commissioner of the State
70 of Georgia in New York, residing in the city of New York, personally appeared James A. Ralston, to me personally

known to be the individual named in and who executed the foregoing instrument, who acknowledged that he executed the same for the purposes therein named and mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal this 26th day of August, A. D. 1880.

(Signed) CHARLES EDGAR MILLS,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

STATE OF CONNECTICUT, *Fairfield County:*

Know all men by these presents that I, Ida Ralston, wife of James A. Ralston, of said State & county, doth, in consideration of the sum of five dollars cash in hand paid to me by George B. Turpin, trustee, ratify and confirm and doth freely and voluntarily give my consent to the execution of the aforementioned deed of date August 26th, 1880, from said James A. Ralston to said George B. Turpin, trustee for his children, expressed in said deed.

In testimony whereof I have hereto set my hand and seal this the 26th day of August, 1880.

71 (Signed) IDA RALSTON.

Signed, sealed, and delivered in the presence of—
(Signed) CHARLES EDGAR MILLS.
WILLIAM D. WARD.

STATE OF NEW YORK, } ss:
City and County of New York, }

Be it remembered that on the 26th day of August, A. D. 1880, before me, Charles Edgar Mills, a commissioner of the State of Georgia in New York, personally appeared Ida Ralston, the wife of James A. Ralston, to me personally known to be the individual named in and who executed the foregoing instrument, who acknowledged that she executed the same for the purposes therein named and mentioned; and the said Ida Ralston, being duly examined by me separately and apart from her said husband, did declare that she did, freely and voluntarily and without any compulsion from her husband, sign, seal, and deliver the said instrument for the purposes therein mentioned, with intention thereby to renounce, give up, and forever quitclaim all her right of dower and thirds and all her other interest of, in, or to the lands and tenements therein mentioned and conveyed.

In witness whereof I have hereunto set my hand and affixed my official seal this 26th day of August, A. D. 1880.

72 (Signed) CHARLES EDGAR MILLS,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

EXHIBIT "D."

STATE OF NEW YORK, *County of New York:*

This indenture, made the twenty-eighth day of August, in the year one thousand eight hundred and eighty, between James A. Ralston, of the county of Fairfield and State of Connecticut, of the first part, and George B. Turpin, trustee for his children, William C. Turpin, Frank M. Turpin, Geo. R. Turpin, Lizzie Turpin, and Walter H. Turpin, of the county of Bibb and State of Georgia, of the second part, witnesseth:

That the said party of the first part, for and in consideration of the sum of five dollars (and other valuable consideration), lawful money of the United States, to him in hand paid by the said party of the second part at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said party of the second part, his successors, executors, and administrators, forever released and discharged from the same
73 by these presents, hath granted, bargained, sold, aliened, remised, released, conveyed, and confirmed, and by these presents doth grant, bargain, sell, alien, remise, release, convey, and confirm, unto the said party of the second part and to his successors and assigns forever all of those lots or parcels of land situate, lying, and being in the city of Macon, county of Bibb and State of Georgia, and known as the Ralston Hall Theatre Building, situated at the corner of Third and Cherry streets in said city, together with the lots on Cherry street, and numbered as follows: No. eighty-two (82), occupied by Johnson & Harris; No. eighty-six (86), occupied by Felix Corput; No. eighty-eight (88), occupied by J. M. W. Christian; No. ninety (90), occupied by William F. Grace; and No. eighty-four (84), being now vacant; the property thereby conveyed being all the property on said Cherry St., beginning at and including the lot on which the store now occupied by said William F. Grace is located and running on Cherry St. to the corner where said street intersects with Third street; thence along said Third street to the first store adjoining said Ralston Hall on Third St.

The property hereby conveyed is sold with the condition that so long as the said James A. Ralston shall live he is to receive the annual rents, issues, and profits of said property, less such ex-
74 penses as may be incurred in the collection of same and amounts that shall be paid for taxes, repairs, and insurance; and so soon as the said James A. Ralston shall die, then the title to said property shall vest absolutely and in fee simple in said George B. Turpin, trustee aforesaid, and his successors.

Together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and also all the estate, right, title, interest in said property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, and to

the same and every part and parcel thereof, with the appurtenances; to have and to hold the above granted, bargained, and described premises, with the appurtenances, unto the said party of the second part, his successors and assigns, to their own proper use, benefit, and behalf, forever.

This deed, so far as the property now occupied by William F. Grace is concerned, is subject to a mortgage made by James A. Ralston to William H. Ross for five thousand dollars.

And the said James A. Ralston, for his heirs, executors, and administrators, doth covenant, grant, and agree to and with the
75 said party of the second part, his successors and assigns, that the said James A. Ralston, at the time of the sealing and delivery of these presents, is lawfully *siezed* in his own name and right of a good, absolute, and indefeasible estate of inheritance in fee simple of and in all and singular the above granted and described premises, with the appurtenances thereto appertaining and belonging, and has good right, full power, and lawful authority to grant, bargain, sell, and convey the same in manner aforesaid.

And that the said party of the second part, his successors and assigns, shall and may at all times hereafter peaceably and quietly have, hold, use, occupy, possess, and enjoy the above granted premises, and every part and parcel thereof, with the appurtenances, without any let, suit, trouble, molestation, eviction, or disturbance of the said party of the first part, his heirs or assigns, or of any other person or persons lawfully claiming or to claim the same, and that the same now are free, clear, discharged, and unencumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments, and encumbrances of what nature or kind soever, except as hereinbefore expressed; and also that the said party of the first part, and for his heirs and all and every person or persons whatsoever lawfully or equitably deriving any estate, right,
76 title, or interest of, in, or to the hereinbefore-granted premises by, from, under, or in trust for them, shall and will, at any time or times hereafter, upon the reasonable request and at the proper costs and charges in the law of the said party of the second part, his successors and assigns, make, do, and execute, or cause to be made, done, and executed, all and every such further and other lawful and reasonable acts, conveyances, and assurances in the law for the better and more effectually vesting and confirming the premises hereby granted, or so intended to be, in and to the said party of the second part, his successors and assigns, forever, as by the said party of the second part or their counsel learned in the law shall be reasonably advised or required.

And the said James A. Ralston, for himself and his heirs, the above-described and hereby granted and released premises, and every part and parcel thereof, with the appurtenances, unto the said party of the second part, his successors and assigns, against the said party of the first part and his heirs, and against all and every person or persons whomsoever lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

In witness whereof the said party of the first part has hereunto set his hand and seal the day and year first above written.
77 (Signed) JAS. A. RALSTON. [L. S.]

Sealed and delivered in the presence of—
A. PROUDFIT,
CHAS. EDGAR MILLS,
Their signatures.

All erasures and interlineations made before signing and sealing
(Signed) CHAS. EDGAR MILLS.
A. PROUDFIT.

STATE OF NEW YORK, } ss:
City and County of New York, }

Be it remembered that on this 28th day of August, A. D. 1880, before me, Charles Edgar Mills, a commissioner of the State of Georgia in New York, residing in the city of New York, personally appeared James A. Ralston, to me personally known to be the individual named in and who executed the foregoing instrument, who acknowledged that he had executed the same for the purposes therein named & mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal this 28th day of August, A. D. 1880.

(Signed) CHARLES EDGAR MILLS,
Commissioner for Georgia in New York,
No. 117 *Broadway, N. Y. City.*

STATE OF NEW YORK, *County of New York:*

Know all men by these presents that I, Ida Ralston, wife of James A. Ralston, doth, in consideration of the sum of five dollars, cash in hand paid to me by George B. Turpin, trustee, mentioned in
78 a deed this day made to him by my husband, James A. Ralston, doth ratify and confirm and doth freely and voluntarily give my consent to the conveyance of the property mentioned in said deed.

In testimony of which I have hereto set my hand & seal this 28th day of August, 1880.

(Signed) IDA RALSTON. [L. S.]

Signed, sealed, and delivered in the presence of us—
(Signed) A. PROUDFIT.
CHAS. EDGAR MILLS.

STATE OF NEW YORK, } ss:
City & County of New York, }

Be it remembered that on this 28th day of August, A. D. 1880, before me, Charles Edgar Mills, a commissioner of the State of Georgia in New York, residing in the city of New York, personally appeared Ida Ralston, the wife of James A. Ralston, to me personally known

to be the individual named in and who executed the foregoing instrument, who acknowledged that she executed the same for the purposes therein named and mentioned; and the said Ida Ralston, being duly examined by me separately and apart from her said husband, did declare that she did freely and voluntarily and without any compulsion from her husband, sign, seal, and deliver the said instrument for the purposes therein mentioned, with intention thereby to renounce, give up, and forever quitclaim all her right of dower and thirds and all her other interest of, in, and
79 to the lands and tenements therein mentioned and conveyed.

In witness whereof I have hereunto set my hand and affixed my official seal this 28th day of August, A. D. 1880.

(Signed) CHARLES EDGAR MILLS,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

GEORGIA, *Bibb County:*

Superior Court.

CLERK'S OFFICE.

Filed for record Sept. 13th, 1880, and recorded Sept. 13th, 1880, in Book "B B," folios 662, 3, 4.

(Signed) A. B. ROSS, *Clerk.*

EXHIBIT "E."

STATE OF NEW YORK, } ss:
County of New York, }

This indenture, made the 19th day of April, eighteen hundred and eighty-one, between Jas. A. Ralston, of the county of Fairfield and State of Connecticut, of the first part, and Geo. B. Turpin, trustee, of the county of Bibb and State of Georgia, of the second part, witnesseth:

That the said Jas. A. Ralston, for and in consideration of the love and affection which he bears to the said George B. Turpin and to his children hereinafter mentioned, as well as in consideration of the valuable aid and assistance which he has received from
80 the said George B. Turpin during a long series of years in his personal and business affairs, as well as in consideration of the sum of five dollars in hand paid by the said George B. Turpin at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, and conveyed, and doth by these presents grant, bargain, sell, and convey, unto the said George B. Turpin, trustee, and to his successors in said trust and to his assigns duly authorized all those lots or parcels of land situate, lying, and being in the city of Macon, county of Bibb, and State of Georgia, being parts of lots (7) seven and (8) eight, in square (39) thirty-nine, of said city of Macon, and fronting on Cherry and Third streets, and bounded as follows: Beginning at a point on Cherry St. (133) one hundred and thirty-three feet from the corner of Cherry and Third streets (said point being the

dividing line between said conveyed property and *and* the property now owned and occupied by E. Witkowski), a line running southeasterly along the line of said property and Cherry street (133) one hundred and thirty-three feet to the corner of Cherry and Third streets, thence in a southwesterly direction along the line of said premises and Third street to a point on said line (96) ninety-six feet from the corner of Cherry and Third streets; thence in a northwesterly direction to a point (109) one hundred and nine feet and six inches from Third street and (96) ninety-six feet from Cherry street; thence southwesterly to a point (109) one hundred and nine feet and (6) six inches from Third street and (112) one hun-
81 dred and twelve feet from Cherry street; thence northwesterly (23) twenty-three feet and (6) six inches to a point on the said dividing line between the said conveyed premises and the said premises of E. Witkowski (112) one hundred and twelve feet from the original starting point; thence along said dividing line northeasterly (112) one hundred and twelve feet to the original starting point.

That portion of the property hereby conveyed which adjoins the property of the said E. Witkowski, fronting on Cherry St. (23) twenty-three feet and (6) six inches and running back (112) one hundred and twelve feet, is subject to a mortgage made by James A. Ralston to Wm. H. Ross for ($5,000) five thousand dollars.

To have and to hold the said bargained and described premises, together with all and singular the buildings, tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining unto the said George B. Turpin, his successors and lawful assigns, in fee simple—

In trust, nevertheless, for the sole and separate use, benefit, and enjoyment of the following-named children of the said George B. Turpin, viz: William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, without liability for the contracts, undertakings, or defaults of the said Geo. B. Turpin or of any other person whomsoever:

Provided, nevertheless, That so long as the said James A. Ralston shall live he shall, by himself or through his duly authorized agents, retain possession of said property, and shall receive and en-
82 joy the annual rents, issues, and profits of the same, less such expenses as may be incurred in the collection of same and less the amounts that shall be paid for taxes, insurance, and repairs on said property, the meaning and intent of this deed of conveyance being that there is hereby conveyed to the said George B. Turpin, trustee as aforesaid, full and perfect title in fee simple to said property at this present date, but the possession of the said George B. Turpin, trustee, and of his said *cestui que trusts* is postponed, as well as the right to the income from the same, until the death of the said James A. Ralston.

And the said James A. Ralston, for himself, his heirs, executors, and administrators, the above described and conveyed premises and every part and parcel thereof, with all the appurtenances thereunto belonging, unto the said George B. Turpin, trustee, his successors

and assigns, against the said James A. Ralston, his heirs, executors, and administrators, and against the claim of all and every person or persons whomsoever, shall and will warrant and forever defend by virtue of these presents.

In witness whereof the said James A. Ralston hath hereunto set his hand and affixed his seal the day and year first above written.

(Signed) JAS. A. RALSTON. [L. S.]

Signed, sealed, and delivered in the presence of Horace E. Jones and William H. Clarkson, as witness my hand and official seal this 19th day of April, 1881, *as witness my hand and official seal.*

(Signed) WILLIAM H. CLARKSON,
Commissioner for Georgia in New York.

83 STATE OF NEW YORK, } *ss:*
City and County of New York, }

Be it remembered that on this 19th day of April, A. D. 1881, before me, William H. Clarkson, a commissioner of the State of Georgia in New York, residing in the city of New York, personally appeared James A. Ralston, to me personally known to be the individual named in and who executed the foregoing instrument, who acknowledged that he executed the same for the purposes therein named and mentioned.

In witness whereof I have hereunto set my hand and affixed my seal this 19th day of April, A. D. 1881.

(Signed) WILLIAM H. CLARKSON,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

STATE OF NEW YORK, *County of New York:*

Know all men by these presents that I, Ida Ralston, wife of James A. Ralston, do, in consideration of five dollars cash in hand paid me by George B. Turpin, trustee, as well as in consideration of the premises recited in a deed of conveyance this day made by the said James A. Ralston to the said George B. Turpin, trustee, to certain portions of lots (7) seven and (8) eight, in square (39) thirty-nine, in the city of Macon, county of Bibb and State of Georgia, *do* hereby ratify and confirm the said deed of conveyance, and do hereby join in the execution of the same, hereby renouncing and conveying to the
84 said trustee for the said uses all my right of dower and other right, title, and interest in and to said property.

In testimony whereof I have hereunto set my hand and affixed my seal this nineteenth day of April, eighteen hundred and eighty-one.

(Signed) IDA RALSTON. [L. S.]

Signed, sealed, and delivered in presence of Horace E. Jones and William H. Clarkson, as witness my hand and official seal this 19th day of April, 1881, *as witness my hand and official seal.*

(Signed) WILLIAM H. CLARKSON,
Commissioner for Georgia in New York.

STATE OF NEW YORK, } ss:
City and County of New York, }

Be it remembered that on this 19th day of April, A. D. 1881, before me, William H. Clarkson, a commissioner of the state of Georgia in New York, residing in the city of New York, personally appeared Ida Ralston, to me personally known to be the individual named in and who executed the foregoing instrument, who acknowledged that she executed the same for the purposes therein named and mentioned; and the said Ida Ralston, being duly examined by me separately and apart from her said husband, did declare that she did freely and voluntarily and without any compulsion from her husband sign, seal, and deliver the said instrument for the purposes therein mentioned with intention thereby to renounce, give up, and forever quitclaim all her right of dower and thirds and all
85 her other interest of, in, or to the lands and tenements therein mentioned and conveyed.

In witness whereof I have hereunto set my hand and affixed my seal this 19th day of April, A. D. 1881.

(Signed) WILLIAM H. CLARKSON,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

GEORGIA, *Bibb County:*

Superior Court.

CLERK'S OFFICE.

Left for record April 25, '81, and recorded in Book "E E," folios 94, 95, 96, & 97, April 25, '81.

J. W. BLOUNT, *D. Clerk.*

Endorsement: No. 25. In equity. In 5th circuit court U. S., west. div., southern dist. of Ga. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Answer of Geo. B. Turpin, trustee. Filed in office this 11th day of July, 1884. L. M. Erwin, deputy clerk. Bacon & Rutherford, sol's for def't-.

Afterwards, to wit, on the 28th day of July, A. D. 1884, came the within-named complainant, by her solicitors, Messrs. Lanier and Anderson, and filed her replication to the answer of George B. Turpin, trustee, *et al.;* which said replication is in the words and figures following, to wit:

86 *Replication.*

In the Fifth Circuit Court of United States for Western Division of the Southern District of Georgia. In Equity.

Mrs. IDA RALSTON

vs.

GEORGE B. TURPIN, as Trustee for His Children, *et al.*

Answer filed by George B. Turpin, as trustee for his children.

The above-named complainant, saving and reserving unto herself, now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer, for replication thereto, says that she will aver and maintain and prove her said bill of complaint to be true, certain, and sufficient in law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant, without this, that any other matter or thing whatsoever in the said answer contained material or effectual in law to be replied unto, and not herein and hereby sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain, and prove as this honorable court shall direct, and humbly prays as in and by her said bill she has already prayed.

LANIER & ANDERSON,
Complainant's Solicitors.

87 Endorsement: 25. U. S. circuit court, west'n division, southern dist. of Ga. Ida Ralston *vs.* George B. Turpin, trustee for — children, *et al.* Replication. Filed July 28th, 1884. L. M. Erwin, deputy clerk. Lanier & Anderson.

Afterwards, to wit, on the 18th day of October, A. D. 1884, on application of Messrs. Lanier & Anderson, solicitors for complainant, the court made an order appointing examiner of witnesses; which said order is in the words and figures following, to wit:

Order Appointing Examiner of Witnesses.

In Fifth Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON

vs.

GEORGE B. TURPIN, as Trustee for His Children, *et al.*

Upon application of the complainant in the above-stated cause for the appointment of an examiner to take testimony of witnesses

in said cause, as provided in the amendment to the rule of court number 67, made at December term, 1861, it is ordered by the court that E. F. Best, of Macon, Ga., be, and he is hereby, appointed to take the testimony of any and all witnesses residing in the
88 county of Bibb, in said State, and outside of said county within one hundred miles of the city of Macon, where said court is held, as complainant's counsel shall desire to have brought before said examiner to testify in said case; also further ordered that said examiner, upon motion of defendants' counsel, take the testimony of defendants' witnesses within said limits.

In open court, Oct. 18th, 1884.

JAS. W. LOCKE, *Judge.*

Endorsement: In U. S. circuit court, western division, so. dist. of Georgia. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Order appointing examiner of witnesses. Filed Oct. 18th, 1884. Marion Erwin, deputy clerk. Lanier & Anderson.

Afterwards, to wit, on the 21st day of January, A. D. 1885, upon the application of Messrs. Lanier and Anderson, solicitors for complainant, the court made the order extending the time for taking testimony; which said order is in the words and figures following, to wit:

Order Extending Time for Taking Testimony.

In the Fifth Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON *vs.* GEO. B. TURPIN, Trustee, &c., *et al.*

89 On the application of the solicitors of the complainant in the above-stated case, and for satisfactory reasons shown to the court, it is ordered by the court that the time for taking testimony in the said case, both that for the complainant and that for the defendants, be, and the same is hereby, enlarged and extended until the first day of April next. All testimony to be used on the hearing of said case shall be taken by or before the said first day of April next, and not afterwards.

In open court this 21st day of January, 1885.

THOMAS SETTLE, *Judge.*

Endorsement: U. S. cir. court, W. div., so. dist. of Ga. Ida Ralston *vs.* George B. Turpin, trustee, *et al.* In equity. Order extending time for taking testimony. Filed January 21st, 1885. L. M. Erwin, deputy clerk. Lanier & Anderson, sol's.

Afterwards, to wit, on the 8th day of May, A. D. 1885, the court made an order appointing George W. Gustin, Esq., to take the testi-

mony of such witnesses as had not been examined by E. F. Best, Esq.; which said order is in the words and figures following, to wit:

Order Appointing Geo. W. Gustin Examiner.

90 In 5th Circuit Court U. S., Western Div., So. Dist. of Ga.
In Equity.

IDA RALSTON *vs.* GEO. B. TURPIN, Trustee.

It appearing to the court that E. F. Best was appointed examiner in the above-stated case, which order of appointment expired on April 1st, 1885, and before all the witnesses were examined, and it appearing that the said E. F. Best is not now in the city and his engagements are such as will prevent his further acting as examiner, it is ordered that George W. Gustin, Esqr., be appointed as examiner in above-stated case to take the testimony of such witnesses as either party may produce before him and such other evidence as appertains to said case and make a report of the same to this court by the twentieth (20th) day of May, 1885.

In open court May 8th, 1885.

EMORY SPEER,
U. S. Judge.

Endorsement: In U. S. circuit court, west. division, so. dist. of Ga. Ida Ralston *vs.* Geo. B. Turpin, trustee. Order appointing Geo. W. Gustin examiner. Filed May 8th, 1885. L. M. Erwin, dep. clerk.

91 Afterwards, to wit, on the 8th day of May, A. D. 1885, came the within-named complainant, by her solicitors, Messrs. Lanier & Anderson, and filed a precipe for *subpœna duces tecum;* which said precipe is in the words and figures following, to wit:

Precipe for Subpœna Duces Tecum.

In the 5th Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON *vs.* GEORGE B. TURPIN, Trustee, &c., *et al.*

Subpœna duces tecum as below.

To the defendants or their solicitors:

You are hereby notified to produce in court, to be used in evidence on the trial of the above-stated case, during the term of said court now in session and from term to term until said case shall be finally tried and disposed of, the books kept by the said George B. Turpin or by the firm of Turpin & Ogden, showing all the transactions had

Issued May 8th, 1885.

between the said Turpin or the said Turpin & Ogden and the said James A. Ralston, Jr., respecting the renting and management of the property of said Ralston in and about the city of Macon, and especially all books and papers showing the yearly rent roll of said property and sums of money collected for the rent thereof and the disposition made thereof from the time the said Turpin or the said Turpin & Ogden became the agent or agents of said Ralston in the management of said property down to the present time.

LANIER & ANDERSON,
Compl't's Sol's.

92 Endorsement: U. S. circuit court, west'n division, so. dist. of Ga. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Precipe for *subpœna duces tecum.* Filed May 8th, 1885. L. M. Erwin, deputy clerk. Lanier & Anderson, compl't's sol's.

Afterwards, to wit, on the 29th day of May, A. D. 1885, upon motion of Messrs. Lanier and Anderson, solicitors for complainant, the court made the following—

Order as to Cestui Que Trust Defendants.

In Fifth Circuit Court of the United States for Western Division of Southern District of Georgia.

IDA RALSTON *vs.* GEORGE B. TURPIN, Trustee, *et al.*

Bill in equity.

The subpœna issued in the above-stated cause having been returned, which return has been filed, and it appearing therefrom that the said subpœna was duly served on all the defendants named in the bill; that said George B. Turpin, as trustee for the defendant *cestui que trusts*, has entered his appearance and filed his answer to said bill, showing the grounds of defence of the said *cestui que trusts* to said suit, to which answer a replication was duly made;

93 that no formal answer has been made by the *cestui que trusts* so represented by said trustee, and, discovery having been waived by complainant from them, no order *pro confesso* was taken for complainant nor deemed necessary by her counsel, and it appearing that the *cestui que trusts* are duly represented by their trustee in defense of said suit—

It is, on motion of complainant's solicitors, ordered by the court that the said cause proceed to trial as though each *cestui que trust* had made formal answer to said bill or as though *or* formal order *pro confesso* had been taken against them, to the end that they may be bound by decree of the court in said suit in the same manner

and to the same extent as their said trustee who has made answer as aforesaid.

In open court, May 29th, 1885.

EMORY SPEER,
U. S. Judge.

Endorsement: In U. S. circuit court, western division, so. dist. of Georgia. Ida Ralston *vs.* Geo. B. Turpin, trustee of children. Order as to *cestui que trusts.* Filed May 29th, 1885. M. Erwin, deputy clerk.

Afterwards, to wit, on the 29th day of May, A. D. 1885, came the within-named complainant, by her solicitors, Messrs. Lanier and Anderson, and, after leave of the court for that purpose first had and obtained, did offer an amendment to her bill; which
94 said amendment is in the words and figures following, to wit:

Amendment to Bill.

In the Fifth Circuit Court of the United States for Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON *vs.* GEORGE B. TURPIN, Trustee of Children, &c.

And now comes the complainant in said cause, and, after leave of the court had, amends her bill as follows: Oratrix states that the first deed of gift, or which was claimed by the said Turpin to be such, was executed on the 26th day of August, 1880, by the said James A. Ralston, Jr., with relinquishment of dower executed by your oratrix, the same being the deed or other instrument which the said Turpin carried with him to Stamford, Connecticut, on the occasion of his visit to oratrix and her said husband, referred to in said bill, and which the said Turpin solicited her said husband and herself to sign, as stated in said bill, being an instrument conveying to said Turpin, as trustee as aforesaid, the same property described in the deeds, copies of which are exhibited to said bill, to take effect at the death of the said Ralston.

Your oratrix did not know when said deed or instrument was executed by her, and she is satisfied and so charges the fact to be that her said husband did not know when he executed said deed or other instrument, whether the same was a will or a deed or what its true legal effect was.

95 Your oratrix and her husband were both then so completely under the influence of the said Turpin and so anxious to conciliate & gratify him that they did not stop to consider the character or effect of the paper they were asked to execute, and neither of them had any opportunity of taking the advice of any friend or person learned in the law. Two days after this deed was signed the said Turpin, being for some reason dissatisfied with it, had another prepared by one Proudfit, an attorney related to him,

and insisted that your oratrix and her said husband should execute said second deed, to stand in lieu of the said deed of August 26th, 1880, and your oratrix and her said husband, being still under the same influence, did as bidden by the said Turpin, and executed the said deed, bearing date the 28th day of August, 1880, a copy of which is exhibited to said bill. A copy of the said deed of August 26th, 1880, being exhibited to the said answer of the respondent Turpin, trustee, — oratrix prays to be excused from attaching a copy hereto.

Your oratrix supposed until a few days ago that the said deed, dated August 26th, 1880, had been destroyed, the said Turpin having so soon after its execution procured the execution of the deed dated August 28th, 1880, to stand in lieu of the said first-named deed, and for this reason she did not refer to said first-named deed in her original bill.

She prays that the said deed dated August 26th, 1880,
96 may be produced in court by said respondent, and that the same be decreed to be delivered up & cancelled for the same reasons given by her in said bill for the cancellation of said deeds, copies of which are exhibited to said bill.

LANIER & ANDERSON,
W. DESSAU,
Complainant's Solicitors.

Amendment allowed.

EMORY SPEER,
U. S. Judge.

Endorsement: In U. S. circuit court, west'n division, so. dist. of Ga. Ralston *vs.* Turpin. Amendment to bill. Filed May 29th, 1885. M. Erwin, deputy clerk. Lanier & Anderson, Dessau.

Afterwards, to wit, on the 29th day of May, A. D. 1885, came the counsel for complainant and defendants in the above-stated cause and, with the consent of the court, entered into an agreement to continue the hearing of said cause at Atlanta, to commence on June 11th, 1885, and to so continue until a decree should be rendered therein; which said agreement is in the words and figures following, to wit:

Agreement of Counsel to Continue Trial at Atlanta and Order Thereon.

97 In the 5th Circuit Court of the United States for the Western Division of the Southern District of Georgia. May Term, 1885, of said Court. In Equity.

IDA RALSTON

vs.

GEORGE B. TURPIN, Trustee for Certain of His Children, *et al.*

The hearing of said cause on the bill as amended and the answer of respondent thereto and the replication of complainant and the

depositions and other evidence taken in said case having been commenced during said term at Macon, Georgia, and, after the pleadings in said case had been read, it becoming apparent that said hearing and trial could not be completed before the presiding judge would be compelled to leave the place at which said court was sitting, it is, therefore, agreed and consented by all the parties to said case and their counsel, with the approval of the court, that the further hearing of said case be had at Atlanta, Georgia, beginning on the 11th day of June, 1885, and continuing until a decree is rendered therein, and that such decree when so rendered shall be entered of record in said court as of said May term, 1885, either party to have the same right of appeal to the Supreme Court of the United States and the same rights in all other respects as if said case had been fully heard and decree rendered therein whilst said court was regularly in session at Macon, Georgia, the place designated by law.

This 29th day of May, 1885.

LANIER & ANDERSON,
98 WASHINGTON DESSAU,
Compl't's Solicitors.
BACON & RUTHERFORD,
HILL & HARRIS, *Def'ts' Sol's.*

Ordered that this consent be made a part of the record of the cause; that it be entered on the minutes of the circuit court of the western division of the southern district of Georgia.

EMORY SPEER,
U. S. Judge.

Endorsement: In U. S. circuit court, western division, so. dist. of Ga. Ida Ralston *vs.* G. B. Turpin *et al.* Consent of counsel to continue trial at Atlanta and order thereon. Filed July 6th, 1885. L. M. Erwin, deputy clerk.

Afterwards, to wit, on the 12th day of June, A. D. 1885, came the within-named complainant, by her solicitors, and, after leave of the court first had and obtained, filed an amendment to her bill in this cause; which said amendment is in the words and figures following, to wit:

Amendment to Bill.

99 In the Fifth Circuit Court of the United States for Western Division of the Southern District of Georgia.

IDA RALSTON *vs.* GEORGE B. TURPIN, as Trustee for Children, *et al.*

Bill in equity.

And now comes the complainant above named and, after leave of the court first had, further amends her said bill as follows:

Your oratrix further shows that since her said suit was brought the paper purporting to be the last will and testament of James A. Ralston, her late husband, deceased, which was in her possession at

the time of his death, was offered for probate in the surrogate's court of the city, county, and State of New York, being the court having jurisdiction of the wills of persons dying whilst residents of said city, county, and State of New York; that thereupon a caveat was filed against the probate of said instrument as a will upon several grounds, and upon proof submitted on grounds and upon proof submitted on the issues made at the trial thereof the said court adjudged that the said instrument was not a valid will on the grounds set forth in the judgment of said court, all which will fully appear, together with a copy of said instrument, by a transcript of the record of said proceedings duly certified and now here to the court shown.

Your oratrix states that she has no control over the instrument so submitted for the action of said surrogate's court, and re-
100 fers to the transcript of the record of the proceedings aforesaid for the provisions thereof, the original having been filed in said surrogate's court on or about the 14th day of September, in the year 1883, as she is informed and believes.

Oratrix further states that upon the filing of said caveat as aforesaid (and with the causing, making, or filing of which she had nothing to do, directly or indirectly, and which was not done by her authority or her knowledge) she was advised by her counsel that she had no interest in setting up said instrument as a will, as it did not interfere with her rights as sole heir-at-law of her said late husband, and, besides, that it would be useless to do so. The said transcript — hereto attached as an exhibit.

LANIER & ANDERSON,
W. DESSAU,
Complainant's Solicitors.

UNITED STATES OF AMERICA,
Western Division of Southern
District of Georgia, County of Bibb:

Before me, the undersigned, personally came Ida Ralston, the complainant in the foregoing-stated bill, who, being duly sworn, saith that the statements made in the foregoing amendment (which has been read to her and she knows the contents thereof) are, so
101 far as they concern her own act or deed, true of her own knowledge, and so far as they relate to the acts or deeds of any other person or persons she believes them to be true. She prays the court to allow said amendment and states that she does not now offer or make the same for the purpose of vexation or delay.

IDA RALSTON.

Sworn to and subscribed before me this 12th day of June, 1885.
[SEAL.] FELIX C. CAMP,
Notary Public, Bibb Co., Ga.

Amendment allowed.

EMORY SPEER,
U. S Judge.

Endorsement: Ida Ralston *vs.* Geo. B. Turpin. Amendment to bill. Filed July 6th, 1885. L. M. Erwin, deputy clerk. Lanier & Anderson, W. Dessau.

EXHIBIT "A."

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, Greeting:

102 Know ye that we, having examined the records and files in the office of the surrogate of the county of New York, do find a certain will, petition, citation, proofs of service, objections, and decree in the matter of the estate of James A. Ralston, deceased, there remaining in the words and figures following, to wit:

STATE OF NEW YORK, *City and County of New York:*

I, James A. Ralston, of the State, county, and city of New York, being of sound, disposing mind and memory, being desirous of disposing of all the property I own at my death and of which I may die seized and possessed, do make, ordain, publish, and declare the following as my last will and testament, hereby revoking and annulling all other wills heretofore made by me:

Item 1st. First, I desire that so soon after my death as is practicable my executors, hereinafter named, shall pay all the just debts that I owe and that may become chargeable against my estate.

Item 2d. Second, I give and bequeath to my wife, Ida Ralston, all of the property that I may own at the time of my death, both real and personal, of every description whatever, wherever it may be located. This devise particularly includes all the real estate I own in the city of Macon, Georgia, and the personal property, both ornamental and useful, of which I may die possessed.

Item 3d. Third, I nominate and appoint my friends, George
103 B. Turpin and Thomas L. Massenburg, of the city of Macon, Georgia, as executors of this my last will and testament, of whom no bond shall be required at the time of the probate hereof, and the necessity of having my estate appraised and inventory and returns made to the probate court are hereby dispensed with this the 21st day of October, *1881*, A. D. 1881.

JAS. A. RALSTON. [SEAL.]

Signed, sealed, declared, and published by the above-named James A. Ralston *and* as his last will and testament in the presence of us, the undersigned, who subscribed our names hereto in the presence of said testator and in the presence of each other at his special request this the 21st day of October, A. D. 1881.

O. S. PAINE, M. D.,
47 *West* 31*st St., N. Y. City.*
D. B. IRWIN,
Middleton, Osage Co., N. Y.
H. C. BARRETT,
Hotel Brighton, 42*d St. & Broadway, N. Y. City.*

COUNTY OF NEW YORK:

Surrogate's Court.

To the surrogate's court of the county of New York:

The petition of Ida Ralston, of the city of New York, respectfully showeth—

That your petitioner is the widow of and the sole legatee and devisee named in the last will and testament of James A. Ralston, late of the county of New York, State of New York, deceased; that the said deceased was, at or immediately previous to his death, a resident of the county of New York and a citizen of the United States, and departed this life in the State of New Jersey on
104 the 4th day of July, 1883, and that said last will and testament above mentioned relates to both real and personal estate.

Your petitioner further shows that the widow, only heirs, and next of kin of said deceased are Ida Ralston, widow (your petitioner), who resides at New York city; Laura Ralston Smith, a sister of the father of said James A. Ralston, deceased, who resides at No. 130 West 34th street, New York city, and who is of full age; that the said James A. Ralston left him surviving no children or grandchildren or descendants, father or mother or ancestors, brothers or sisters or their descendants, and that the said Laura R. Smith is the only heir-at-law and next of kin of the said James A. Ralston, deceased.

Your petitioner therefore prays that a citation issue to the above-named persons to attend the probate thereof, and that the said last will and testament may be proved and letters testamentary or of administration granted thereon according to law.

IDA RALSTON.

CITY AND COUNTY OF NEW YORK, *ss:*

The petitioner named in the foregoing petition, being duly sworn, deposes and says that she has heard read the foregoing petition subscribed by her and knows the contents thereof, and that the same is true of her own knowledge, except as to the matters therein stated on information and belief, and as to those matters she believes it to be true.

IDA RALSTON.

Sworn this 18th day of August, A. D. 1833, before me—

WILLIAM P. PARKER,

105 *Notary Public* (24), *New York County.*

(Endorsed:) Surrogate's court. In the matter of proving the last will and testament of James A. Ralston, deceased. Petition filed this 14th day of Sept., 1883. Citation. Returnable the 24 day of Sept., 1883. Petition for probate. Roger A. Pryor, attorney for petitioner, 74, 76 Wall street, New York city.

The people of the State of New York, by the grace of God free and independent, to Laura Ralston Smith, of full age, residing in the city of New York, the heir and next of kin of James A. Ralston, deceased, send greeting:

Whereas Ida Ralson, of the city of New York, has lately applied to the surrogate's court of our county of New York to have a certain instrument in writing, relating to both real and personal property, duly proved as the last will and testament of James A. Ralston, late of the city and county of New York, deceased; therefore you and each of you are cited to appear before the surrogate of our county of New York, at his office, in the city of New York, on the 24th day of September, 1883, at ten o'clock in the forenoon of that day, then and there to attend the probate of the said last will and testament.

106 In testimony whereof we have caused the seal of the surrogate's court of said county of New York to be hereunto affixed.

Witness Daniel G. Rollins, surrogate of our said county of New York, at the city of New York, the 14th day of September, one thousand eight hundred and eighty-three.

[L. S.] AUSBURN M. DICKINSON,
Clerk to the Surrogate's Court.

CITY AND COUNTY OF NEW YORK, *To wit:*

Dunnelle Van Schaick, of said city, being duly sworn, says that he is over the age of twenty-one years; that he made personal service of the foregoing original citation on the following-named person, in said citation mentioned, by exhibiting to her the said original citation and delivering to and leaving with her a true copy thereof, as follows—that is to say, on the therein-named Laura Ralston Smith, at No. 130 West 34th St., in the city of New York, on the 15th day of September, 1883. Deponent also says he knew at the time of such service the said Laura Ralston Smith to be the person named in and described in the said citation.

DUNNELLE VAN SCHAICK.

Sworn before me this 17th day of September, 1883.
WM. J. TRIMBLE,
Ass't to the Surrogate, N. Y. Co.

In Surrogate's Court, County of New York.

107 In the Matter of Proving the Last Will and Testament of JAMES A. RALSTON, Deceased.

The answer of Laura Ralston Smith to the petition of Ida Ralston, filed September 14, 1883, praying that the last will and testament of James A. Ralston may be proved and letters testamentary or of ad-

ministration granted thereon according to law, respectfully states and alleges as follows:

First. The said Laura Ralston Smith admits that the said James A. Ralston left him surviving no children or grandchildren or descendants, father or mother or ancestors, brothers or sisters or other descendants; and, further, that she, the said Laura Ralston Smith, is the only heir-at-law and next of kin of the said James A. Ralston, deceased.

Second. The said Laura Ralston Smith, on information and belief, alleges that the said last will and testament referred to and alleged in the petition of said Ida Ralston in the above matter was not and is not the last will and testament of the said James A. Ralston, deceased.

Third. The said Laura Ralston Smith, for further answer in the above matter, alleges, upon her information and belief, that the said James A. Ralston, on the day of the date of the said last will and testament referred in the said petition of Ida Ralston and at the time he signed said will, was not of sound mind or memory and was incapable of making and executing a valid will, and that he, the said James A. Ralston, did not know or understand the con-
108 tents of said last will and testament.

Fourth. The said Laura Ralston Smith, further answering, alleges, on her information and belief, that the said last will and testament alleged in said petition in this matter was prepared under the dictation of George B. Turpin, named therein as one of the executors, in Macon and State of Georgia, and under the cover of apparently giving the property to the petitioner, Ida Ralston, the possession thereof without bail and without invoice, by the terms of the will, would, on proof of the will, come into the possession of said George B. Turpin, as executor, without any security whatever; and that said will was forwarded to New York and the signature of the said testator was procured through the influence of said George B. Turpin, the said Ida Ralston and others aiding and assisting them, when the said James A. Ralston, deceased, was ignorant of the contents thereof and when he was incapable of understanding the contents of said will and when he was of unsound mind and memory.

Fifth. The said Laura Ralston Smith, for a further answer herein, alleges, upon her information and belief, that the said James A. Ralston, deceased, at the time he executed said alleged last will and testament was improperly and unduly influenced to sign the same by said petitioner, Ida Ralston, the said George B. Turpin, and others unknown to this contestant who were aiding and abetting the said Turpin and Ida Ralston to procure the execution of said will.
109 The said contestant, Laura Ralston Smith, therefore alleges that the said instrument referred to in said petition in this matter is not the last will and testament of the said James A. Ralston, deceased.

And she prays that probate of said alleged will be denied and the proceedings herein dismissed.

LAURA RALSTON SMITH.

CITY AND COUNTY OF NEW YORK, *ss:*

Laura Ralston Smith, being duly sworn, says she is the contestant named in the foregoing answer and knows the contents thereof, and that the same is true of her own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters she believes it to be true.

LAURA R. SMITH.

Sworn to before me this 22d day of September, A. D. 1883.

AND. CALVIN,
Notary Public, N. Y. Co.

At a surrogate's court held for the county of New York, at the court-house, in the city and county of New York, on the 27th day of May, in the year of our Lord one thousand eight hundred and eighty-four.

Present: Hon. Daniel G. Rollins, surrogate.

110 In the Matter of Proving the Last Will and Testament of JAMES A. RALSTON, Dec'd.

Upon reading the petition of Ida Ralston, presenting and asking the probate of an instrument purporting to be the last will and testament of James A. Ralston, late of the city of New York, deceased, which instrument bears date October twenty-first, A. D. 1881, and purports to have been witnessed by O. S. Paine, M. D., 47 West 31st street, New York city, D. B. Irwin, Middletown, Orange county, and H. C. Barrett, Brighton, 42d street and Broadway, New York city, and upon reading the answer of Laura Ralston Smith, the next of kin of said James A. Ralston, deceased, to the said petition, a contestant of the probate of said will, and the hearing upon the probate of said will coming on to be heard in its regular order upon the calendar, and the proponent after appearing on two occasions and procuring the hearing to be postponed finally on May 5th, 1884, after special notice given to both proponent's counsel and the counsel for the contestants to appear and proceed with the probate of said alleged will, and on said fifth day of May, upon the calling of this matter in open court, the said proponent, Ida Ralston, failed to appear personally or by her counsel.

Whereupon the contestant, Laura Ralston Smith, with her counsel, Mr. Sheldon, duly appeared and produced testimony on her part by Hooper C. Barrett and Oakman S. Paine, two of the witnesses to said alleged will and other testimony.

Whereupon the matter was duly submitted to the surro-
111 gate to decide upon the validity of the said instrument purporting to be the last will and testament of James A. Ralston, deceased.

Whereupon, after due deliberation, I do order, adjudge, and decree that the said instrument propounded as the last will and testament of James A. Ralston, deceased, and above described is not and was

not the will of said James A. Ralston, deceased, and that the said James A. Ralston, at the time of executing said instrument purporting to be his will, was not capable of making a valid will; and I do therefore order and adjudge that probate of said will be refused.

DAN'L G. ROLLINS, *Surrogate.*

All which we have caused by these presents to be exemplified and the seal of our said surrogate's court to be hereunto affixed.

Witness Daniel G. Rollins, surrogate, at the city of New York, the twenty-sixth day of May, in the year of *of* our Lord one thousand eight hundred and eighty-five, and of our Independence the one hundred and ninth.

[SEAL.] AUSBURN M. DICKINSON,
Clerk of the Surrogate's Court.

I, Daniel G. Rollins, surrogate of said county and presiding magistrate of the surrogate's court, do hereby certify that Ausburn M. Dickinson, whose name is subscribed to the preceding exemplification, is the clerk of the said surrogate's court of the county of New York, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal or our said surrogate's court, and that the attestation thereof is in due form.

112

Dated New York, May 26th, 1885.

DAN'L G. ROLLINS, *Surrogate.*

STATE OF NEW YORK, }
City and County of New York, } *ss:*

I, Ausburn M. Dickinson, clerk of the surrogate's court of the county of New York, do hereby certify that Daniel G. Rollins, whose name is subscribed to the preceding certificate, is the presiding magistrate of the surrogate's court of the county of New York, duly elected, sworn, and qualified, and that the signature of said magistrate to said certificate is genuine.

In testimony whereof I have hereto set my hand and affixed the seal of said court this 26th day of May, 1885.

[SEAL.] AUSBURN M. DICKINSON,
Clerk of the Surrogate's Court.

Endorsement: U. S. circuit court, western division, so. dist. of Ga. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Certified copy of will, &c., as exhibit to amendment to bill. Filed July 6th, 1885. L. M. Erwin, deputy clerk.

113 Afterwards, on motion of counsel for defendants, the court made the following—

Order Striking Exhibit to Amendment.

In 5th Circuit Court of the U. S. for West. Div., So. Dist. of Ga.
In Equity.

IDA RALSTON *vs.* GEORGE B. TURPIN, Trustee, *et al.*

Counsel for compl't in the above-stated case having offered as evidence in this cause a certified copy of the proceedings before the surrogate of the county of New York, State of New York, in the matter of the probate of the will of James A. Ralston, the same being a petition of Ida Ralston asking that said will be probated, a caveat filed by Laura R. Smith, and the judgment of the surrogate upon the same, the court refused to admit the evidence upon the ground that the respondent in this case was not bound by the proceedings in a cause to which he was not a party. Counsel for respondent having brought to the attention of the court that this certified copy of said proceedings was attached to an amendment made by compl't during the progress of this cause while on trial, and thereupon the said counsel for respondent moved to strike from the exhibit this certified copy of said proceedings before the surrogate of the county of New York, State of New York, to wit, the said petition, caveat, and judgment. At the time the court allowed said amendment
114 the court was not aware that this certified copy of proceedings before the surrogate was attached as a part of the exhibit to the amendment.

It is therefore ordered that that part of the exhibit above set out be stricken from said amendment.

EMORY SPEER,
U. S. Judge.

Exceptions Pendente Lite.

And complainant excepts to the foregoing order striking the exhibit to the amendment referred to therein, and prays the allowance of this exception.

LANIER & ANDERSON,
Sol's for Compl't.

Allowed and ordered filed as part of the record in said case.
EMORY SPEER,
U. S. Judge.

Endorsement: In U. S. circuit court, western division, southern dist. of Ga. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Order striking exhibit to amendment, exceptions, and order allowing. Filed July 6th, 1885. L. M. Erwin, deputy clerk. Lanier & Anderson.

115 And afterwards came the said complainant, by her solicitors, and filed further exceptions to said order striking — exhibit to amendment; which exceptions are in the words and figures following, to wit:

Further Exceptions.

In the 5th Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON *vs.* GEORGE B. TURPIN, Trustee, *et al.*

In the progress of the trial of the above-stated case the annexed exemplification from the surrogate's court of the county and State of New York giving a certified copy of the last will of James A. Ralston, Jr., of the petition of Ida Ralston, his widow, for probate thereof, the caveat filed thereto by Mrs. Laura R. Smith, an aunt of the alleged testator, and the judgment of the said surrogate's court refusing the probate of said will and declaring it null and void (which said annexed exemplification is marked "Exhibit A") was offered in evidence by the complainants in said above-stated case; whereupon the court, on objection to said evidence as irrelevant and illegal, rejected said exemplification and refused to allow it as evidence in said case on the ground that respondents, not having been parties to said proceedings in said surrogate's court, were and are not bound or affected by said proceedings or by the judgment of said surrogate's court, and that said exemplification is otherwise
116 irrelevant.

Thereupon complainant excepts to said decision rejecting said evidence and claims that said evidence was proper and should have been admitted to show the contents of said will, and that the court in which it was offered for probate had adjudged it void, and had declared that said James A. Ralston, Jr., died intestate, and thus showing that complainant rightly brought her said suit as heir-at-law of said Ralston and not as his sole legatee; and complainant prays that this her exception to the rejection of said evidence may be allowed and ordered filed as part of the records of said case.

LANIER & ANDERSON,
WASHINGTON DESSAU,
Complainant's Solicitors.

Allowed and ordered filed as part of the record in said case.

EMORY SPEER,
U. S. Judge.

Afterwards came the said complainant, by her solicitors, and, after leave of the court first had and obtained, filed her amendment to amendments to her original bill; which said amendment is in the words and figures following, to wit:

Amendment to Amendments to Bill.

117 Circuit Court, West'n Div., So. Dist. of Ga. In Equity.

Mrs. Ida Ralston

vs.

George B. Turpin, Trustee for His Children.

And now comes the said complainant, by her solicitors of record, and, with leave of the court first hereunto obtained, amends the amendments heretofore made to said bill, original, and each and all of the same by waiving sworn answer from said defendants to each and every and all of of said amendments.

LANIER & ANDERSON,
WASHINGTON DESSAU,
Solicitors for Complainant.

Amendment allowed.

EMORY SPEER,
U. S. Judge.

Endorsement: U. S. circuit court, western division, so. dist. of Ga. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Amendment to amendments to bill and order allowing. Filed July 6th, 1885. L. M. Erwin, deputy clerk.

Afterwards, to wit, on the 16th day of June, A. D. 1885, came the within-named defendant, by his solicitors, and filed his an-
118 swer to the amendments; which said answer is in words and figures following, to wit:

Answer of Geo. B. Turpin to Amendments.

In Fifth Circuit Court United States, West'n Div., So. Dist. of Ga.
In Equity.

Ida Ralston

vs.

George B. Turpin, Trustee for His Children, *et al.*

Answer of Geo. B. Turpin to the amendments to the above-stated bill.

In answer to the several amendments in this case the respondent, Geo. B. Turpin, says:

The compl't, as well as Jas. A. Ralston, Jr., knew that the deed of the 26th Aug., 1880, as well as the deeds of the 28th Aug., 1880, and April 19th, 1881, were intended by all the parties to said instruments to be deeds, and it was fully understood that each of them were deeds at the time they were executed; and respondent now

alleges that the deeds of the 26th Aug., 1880, and the 28th of Aug., 1880, altho' containing several informalities, are valid deeds under the law, the intention of the parties to said instruments being plainly expressed that they would operate as such.

The statement made by compl't that neither she nor James A. Ralston knew whether the deed of Aug. 26th, 1880, was a deed or a will was not made in her original bill and is an after-thought suggested by discussion during the progress of the cause.

119 The allegation that neither compl't nor Jas. A. Ralston had any opportunity of advising with any friend or person learned in the law before signing said deeds is not true, for compl't and Jas. A. Ralston voluntarily came from Stamford, Conn., to New York city, unaccompanied by any one, for the purpose of signing the deed of Aug. 28, 1880; they stopped at their own hotel. Respondent did not even know when they arrived in New York city. There certainly was every opportunity of consulting a lawyer, both in the town in which they lived as well as in New York city. Respondent shows that this allegation is all an after-thought suggested to compl't's mind after hearing the legal points of her case discussed; for respondent shows that after he had fully explained to James A. Ralston that his marriage revoked the wills he had made, which explanation was in the presence of compl't, and had said to James A. Ralston that if it it was still his desire that respondent's children should have the property mentioned in the will, and if it was perfectly agreeable, both to him and the compl't, that he had a deed drawn giving this property to this respondent's children at the death of him, the said Ralston, but reserving the use or rents of said property as long as he, the said Ralston, should live; whereupon the said Ralston said it was his desire that respondent's children should have the property mentioned in the will, and both he and compl't said it would give them pleasure to sign the deed.

All the lawers in Conn. and New York could not have explained more clearly what the deed contained and its practical effect

120 than respondent did, nor was there the slightest misunderstanding on the part of any one. Mr. Ogden, who had been invited by Jas. A. Ralston to pay him a visit that summer, had come to Stamford with respondent for the purpose of visiting his relatives, residing then at the hotel, and the said Jas. A. Ralston, of his own accord, called on Mr. Ogden at the hotel & brought him to his house to dinner, and as Mr. Ogden could remain but a short time in Stamford, Jas. A. Ralston, of his own accord and upon his own suggestion, invited Mr. Ogden to accompany him and the compl't on their trip to Bridgeport, where they voluntarily went to find a commissioner of deeds for Ga. Therefore respondent shows there was every opportunity for either of them while in Stamford, at their own home, amongst their own acquaintances, or at Bridgeport, to have consulted a person learned in the law had they the slightest disposition to do so.

Respondent admits that the last will and testament of the said Jas. A. Ralston is now impounded in the office of the surrogate of the county of New York, and that the said will is not now under

the control of compl't, and that she cannot produce said will in court.

Respondent objects to so much of said amendment as refers to the action of the surrogate court of New York, and asks that he will not be required to answer this part of the amendment, because respondent was no party to any proceedings that may have taken
121 place in said court; and, second, because respondent charges the whole proceeding to be one of collusion; that the compl't voluntarily carried said will into that court and colluded with one Mrs. Smith, who had no interest under the will and no interest if the will should be set aside, to caveat said will, and after causing the caveat to be filed did not appear in court to resist the same.

BACON & RUTHERFORD,
Resp't's Sol's.

GEORGIA, *Fulton Co.:*

Personally appeared Geo. B. Turpin, who, being duly sworn, deposes and says that the facts stated in this answer are true so far as they depend upon his own knowledge *are true*, and so far as derived from the knowledge or information of *us* he believes — to be true.

GEO. B. TURPIN.

Sworn to and subscribed before me this 16th June, 1885.

O. C. FULLER,
Deputy Clerk U. S. C. C., Nor. Dist. of Ga.

Endorsement: In equity. 5th circuit court U. S., west. div., so. dist. of Ga. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Answer of Geo. B. Turpin to amendments. Filed July 6th, 1885.
122 L. M. Erwin, deputy clerk. Bacon & Rutherford, sol's for resp'd't. Answer allowed this 16th June, 1885. Emory Speer, U. S. judge.

And afterwards the court, on motion of complainant's solicitors, made an order allowing the general replication heretofore filed — be considered as filed and apply to the answer of respondents to the amendments as well as to the original answer; which order is in the words and figures following, to wit:

Order as to Replication Covering Amendments.

In the 5th Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON *vs.* GEORGE B. TURPIN, Trustee, *et al.*

It appearing to the court that since the complainant's general replication was filed in the above-stated case the original bill of complaint has been several times amended by leave and order of the court, and that answers have been filed to said several amendments of said bill—

It is ordered by the court, on motion of complainant's
123 counsel, that said general replication so heretofore filed in said case by the said complainant do apply and be considered

as filed to the said answer of said respondents to the said several amendments of said bill as well as to the said original answer or answers to said original bill.

EMORY SPEER,
U. S. Judge.

Endorsement: In U. S. circuit court, western division, so. dist of Ga. Ida Ralston *vs.* Geo. B. Turpin *et al.* Order as to replication covering amendments to bill. Filed July 6, 1885. L. M. Erwin, deputy clerk.

And afterwards came the complainant, by her solicitors, and objected to certain testimony of A. O. Bacon; whereupon the court ordered the same to be stricken from the evidence; which said order is in the words and figures following, to wit:

Order Sustaining Objections to Certain Testimony of A. O. Bacon and Allowing Same to be Stricken from the Evidence.

In the 5th Circuit Court of the United States for the Western Division of the Southern District of Georgia.

IDA RALSTON *vs.* GEORGE B. TURPIN, Trustee, &c., *et al.*

124 The following extracts from the testimony of A. O. Bacon, taken before George W. Gustin, examiner, to wit: "I had been attorney for his mother and family for several years, and would not have consented to his making a will had he not been sober;" and also the last clause of the witness' answer to the question (propounded by complainant's counsel), viz: "Did you have any communication with Ralston as to the preparation of the deed of April 19th, 1881;" to which the witness answered: "I had no communication whatever with Ralston as to the preparation of this last-named deed, but was guided by the deed of August 28th, 1880 (and by information received from Mr. Proudfit, who drafted the first deed"), having been objected to by complainant's solicitors as being illegal testimony—

It is ordered by the court that said objection be sustained, and that said first extract from said witness' testimony, and also the words "and by information received from Mr. Proudfit, who drafted the first deed" (being a part of the witness' answer to the question set forth in the second extract) be stricken — and not allowed as evidence in said case.

EMORY SPEER,
U. S. Judge.

Endorsement: In U. S. circuit court, western division, so. dist. of Ga. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Order sustaining objection to certain testimony of A. D. Bacon and allowing same to be stricken from the evidence. Filed July 6th,
125 1885. L. M. Erwin, deputy clerk.

Afterwards, to wit, on the 2nd day of July, A. D., 1885, this cause came on to be heard, and, after argument by counsel, the court ren-

dered its final decree therein in the words and figures following, to wit:

Final Decree.

In the Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON *vs.* GEORGE B. TURPIN, Trustee, *et al.*

This cause came on to be heard at this term and was argued by counsel, and thereupon, upon consideration thereof, it was ordered, adjudged, and decreed as follows:

It is hereby ordered, adjudged, and decreed that the several prayers in complainant's bill be denied; that the said bill be dismissed, and that complainant pay all the costs incurred in the cause, to be taxed by the clerk of this court.

In open court this July 2d, 1885.

EMORY SPEER,
U. S. Judge.

Endorsement: U. S. circuit court, western division, south-
126 ern dist. of Ga. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* In equity. Final decree for defendant. Filed July 6th, 1885. L. M. Erwin, deputy clerk.

And the said complainant, being dissatisfied with the said decree, did, on the 7th day of July, A. D. 1885, and in open court, appeal from said decree to the Supreme Court of the United States; which said appeal and the order allowing the same are in the words and figures following, to wit:

Petition for Appeal and Order Allowing.

In the Fifth Circuit Court of the United States for the Southern District of Georgia, Western Division.

IDA RALSTON, Complainant,
versus
GEORGE B. TURPIN, as Trustee for his Children, William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin; and also William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, Defendants.

Bill in equity.

Decree against the complainant and in favor of the defendants at May term, 1885, being a decree denying the prayers of complainant's bill and dismissing said bill with costs to be paid by complainant.

127 To the honorable the judges of said court:

The above-stated cause coming on for trial at the regular May term, 1885, of said court, and after trial thereof before the Hon-

orable Emory Speer, judge of the United States district court for said southern district, presiding, a final decree against the complainant, Ida Ralston, and in favor of the said defendants having been rendered by the said court in said cause, the said complainant, Ida Ralston, appellant, now comes during the said term, in open court, and makes and files this her petition praying for an appeal to the Supreme Court of the United States, and she, as such appellant, now appeals from the whole of said decree so rendered against her in said United States circuit court, and respectfully prays that the decree of said circuit court and the bill as amended, answers, pleadings, depositions, evidence, exceptions filed, orders, and proceedings in the said cause may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court of the United States will proceed to hear the said cause anew, and that said decree of the said United States circuit court and every part thereof may be reversed and a decree made in favor of appellant, as prayed for in her said bill, with costs, or such other decree as to the said Supreme Court shall seem just.

Petitioner now here tenders her appeal bond, as provided for by law.

This 7th day of July, 1885.

128 LANIER & ANDERSON,
WASHINGTON DESSAU,
Solicitors for Appellant.

CLIFFORD ANDERSON, *Counsel.*

Order Allowing —.

In the Fifth Circuit Court of the United States for the Southern District of Georgia, Western Division.

IDA RALSTON, Complainant,
versus
GEORGE B. TURPIN, Trustees for His Children, William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, and also William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, Defendants.

Bill in equity.

Decree against complainant & in favor of the defendants at May term, 1885, being a decree denying the prayers of complainant's bill and dismissing said bill with costs to be paid by complainant.

Upon the petition of Ida Ralston, complainant in the above-stated cause, praying for the allowance of an appeal to the Supreme Court of the United States for the reversal of the decree rendered against her as a final decree in said cause, and tendering a bond for costs in the sum of five hundred dollars, with William P. Palmer as bondsman (besides herself as principal obligee), which bond is hereby approved,

it is ordered by the court, in open court, at the said May term,
129 1885, thereof, that an appeal be allowed, and that the clerk of the United States circuit court for the southern district of Georgia, western division, do send up to the October term, 1885, of the Supreme Court of the United States a duly certified transcript of the said petition and this order, together with the said bill and amendments, answers, pleadings, depositions, evidence, exceptions filed, and proceedings, including said decree, in the said cause, according to law in such cases provided, to the end that the said decree may be reviewed by the said Supreme Court as prayed for by appellant.

Done in open court this 8th day of July, 1885.

EMORY SPEER,
U. S. Judge.

Endorsement: In U. S. circuit court, western division, southern district of Georgia. Ida Ralston *vs.* George B. Turpin, trustee, *et al.* Petition for appeal and order allowing. Filed July 8th, 1885. L. M. Erwin, deputy clerk.

Power of Attorney.

Bond on appeal.

130 STATE OF GEORGIA, *County of Bibb:*

Know all men by these presents that I, Ida Ralston, of the city, county, and State of New York, for and in consideration of one dollar to me paid, the receipt whereof is hereby acknowledged, as well as for other good consideration to me hereunto moving, have constituted and appointed and by these presents constitute and appoint Robert S. Lanier and Clifford Anderson, of the county and State first aforesaid, my true and lawful attorneys, for me and in my name to execute in my place and stead such bond, in connection with a co-bondsman or bondsmen as surety, which may be necessary or proper for me to have made in order to complete the appeal by me to the Supreme Court of the United States of the following-stated case, now being considered by the court, in case the same should be decided by the court against me and in favor of the defendants, to wit, Ida Ralston *vs.* George B. Turpin, as trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, and — said William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, bill in equity, in the fifth circuit court of the United States for the southern district of Georgia, western division, and which came on to be tried before the said court at
131 the May term, 1885, of said court, the said attorneys-in-fact being hereby authorized to execute for me and in my name any such appeal bond for any sum deemed necessary or proper for me to give in said case to complete said appeal, and this may be done by either of my said attorneys-in-fact as effectually as though done by both, hereby ratifying whatever my said attorneys-in-fact or either of them shall or may do in the premises by virtue of these presents.

Witness my hand and seal this 27th day of June, A. D. 1885.

IDA RALSTON. [L. S.]

Signed, sealed, and delivered in the presence of—
[SEAL.] FELIX C. CAMP,
Not. Pub., Bibb Co., Ga.

Filed in office U. S. circuit court this 8th day of July, 1885.
L. M. ERWIN,
Deputy Clerk.

Bond.

Supreme Court of the United States.

In the Fifth Circuit Court of the United States for Western Division of the Southern District of Georgia.

IDA RALSTON, Complainant,
versus
132 GEORGE B. TURPIN, as Trustee for His Children, William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, and against the said William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, Defendants.

Bill in equity.

Decree at May term, 1885, denying the prayers of complainant's bill and dismissing said bill with costs, to be paid by complainant.

Know all men by these presents that we, Ida Ralston, of the city, county, and State of New York, as principal, and William D. Palmer, a citizen of and resident in the city of Macon, county of Bibb, State of Georgia, as surety, are held and firmly bound unto George B. Turpin, as trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, and also unto the said William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, and to the successors of said trustee and his heirs and legal representatives of the said above-named children in the sum of five hundred dollars, to be paid to the said George B. Turpin, as trustee as aforesaid, and to his successors as said trustee, and to the said above-named children of the said Turpin, their heirs or legal representatives; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

133 Sealed with our seals and dated this the 7th day of July, 1885.

Whereas the above-named Ida Ralston hath taken an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled cause by the said fifth circuit court of the United States for the western division of the southern district of Georgia:

Now, therefore, the condition of this obligation is such that if the above-named Ida Ralston shall prosecute her said appeal to effect and answer all costs if she shall fail to make good her plea, then

this obligation shall be void; otherwise to reman in full force and virtue.

IDA RALSTON, [L. S.]
By her attorney-in-fact, R. S. LANIER.
WILLIAM D. PALMER. [L. S.]

Signed, sealed, and delivered in the presence of the undersigned, who certifies that William D. Palmer is worth the amount of this bond, in money and money invested, as sworn to below.

L. M. ERWIN,
Deputy Clerk.

STATE OF GEORGIA, *Bibb County:*

Before me personally came William D. Palmer, of said county and State, who, being duly sworn, says that he, deponent, is worth the sum of ten thousand dollars over and above all debts and
134 over and above any and all right of homestead and other exemptions allowed herein by law, the above sum consisting mainly in money and money invested in Macon, Ga.

WILLIAM D. PALMER.

Sworn to and subscribed before me this 7th day of July, 1885.
L. M. ERWIN,
Deputy Clerk, U. S. Circuit Court.

Bond approved and ordered filed this 8th day of July, 1885.
EMORY SPEER,
U. S. Judge.

Endorsement: U. S. circuit court, western division, southern district of Georgia. Ida Ralston *vs.* George B. Turpin, trustee, *et al.* Bond on appeal. Filed July 8th, 1885. L. M. Erwin, deputy clerk.

Testimony.

In the Fifth Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON
vs.
GEORGE B. TURPIN, as Trustee for His Children, *et al.*

Depositions on Behalf of Complainant.

Commission to examine Lewis R. Hurlbutt, Henry A. Hub-
135 bard, James H. Olmstead, Sarah A. Hubbard, and Patrick McCarthy, witnesses on behalf of complainant.

Interrogatories.

Interrogatories to be propounded to Lewis R. Hurlbutt, Henry A. Hubbard, Sarah A. Hubbard, James H. Olmstead, and Patrick McCarthy, material witnesses for the complainant in the above-stated case, and who reside out of the State of Georgia, in the town of Stamford, in the State of Connecticut.

Interrogatory 1st. Please state where you resided in the years 1880 & 1881 and what was and is your profession or calling.

Int'y 2d. Please state whether or not you were acquainted with James A. Ralston and Ida Ralston, his wife; if so, where and how long.

Int'y 3d. If you answer you were acquainted with said James A. Ralston in the years 1880 and 1881 or any part of those years please state also if you know what was then his condition, physically and mentally, and whether or not he lived a sober and temperate life or the contrary. If you state that he did not live soberly state
136 all you know as to his habits. Describe his then physical and mental (*condition*) condition, as near as you can, and his habits or any habit you know of which may have affected him in any way, and state your opportunities for knowing what you testify about, and give the facts on which you base any opinion or conclusions you may give in answer to these interrogatories.

Int'y 3d. If you have answered that said James A. Ralston and his wife, Ida (complainant in said case), resided in Stamford at the time you refer to state what sort of business said James A. engaged in, if any, or what he did; whether he and his wife lived in a residence to themselves or lodged or boarded out, and who looked after or attended to their ordinary business or domestic affairs, if you know, and state fully all you know about it; state whether or not the said James A. Ralston was, during the time you knew him, capable, mentally, to attend to or transact business in any way or in such way as men ordinarily attend to their business; if not, give the facts on which your answer is made, and from such facts state whether or not said James A. was then a person of strong or weak mind; whether or not his condition was such that he could or could not be easily influenced by persons he liked or had confidence in; state fully.

Int'y 4th to Lewis R. Hurlbutt. If you have answered that you were a physician state whether or not you have been in regular practice, and how long and according to what school of practice.

137 Int'y 5th to all the witnesses. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

LANIER & ANDERSON,
Solicitors for Complainant.

(Endorsed:) Ida Ralston *vs.* George B. Turpin, trustee, *et al.* Interrogatories. Filed in office Jan'y 8th, 1885. L. M. Erwin, deputy clerk. Lanier & Anderson.

Acknowledgment.

Due and legal service of the within interrogatories acknowledged; copy and further service waived. Let commission issue December, 1884.

Cross-Interrogatories.

We object to the 3d & 4th direct interrogatories, as *it* elicits matter not pertinent or relevant to the issue, and because neither of said witnesses are experts and cannot give their opinions as to the mental condition of James A. Ralston.

We object to the 5th int'y because it does not disclose
138 what testimony it seeks to elicit.

BACON & RUTHERFORD,
Sol's for Geo. B. Turpin, Trustee.

1st X. Did you know James Ralston prior to 1880? Did you know him when he lived in Macon, Ga.? Did you know him while he was growing up in Macon? Did you know anything of his habits, his disposition, or anything about him prior to 1880?

2d X. Were you present in New York city when he signed the deed to the Ralston Hall property in the city of New York to Geo. B. Turpin, as trustee for his children?

3d X. If you were not present, is it not true that you do not know what was his condition at the time he signed said deed?

4th X Int'y. Is it not true that James A. Ralston, while he lived at Stamford, Conn., had no business of any kind to attend to? Was he not a gentleman of leisure, who lived upon his money and was not engaged in any business of any kind?

5th X. If you say James Ralston could be easily influenced by persons he had confidence in please give the names of those persons he had confidence in, and state all the facts that induce you to believe he had confidence in such persons. State what persons did you ever see influence him. State when it was and what way did
139 they influence him, what did they say or do to influence him, and state what did they influence him to do.

6 X. Did you stay with him in the same house? Were you his intimate personal friends, or did you only have a passing acquaintance with him? How often a month did you see —? If you speak of his mental condition as you — refer to the time when he was drinking or when he was sober.

7th X. Are either of you experts on the subject of mental soundness? If so, state fully what actual experience you ever had on this subject. Did you ever make any medical examination of said Ralston for the purpose of ascertaining his mental condition? Did you know anything more about Ralston's mental condition besides the fact that he would at times drink intoxicating liquors?

BACON & RUTHERFORD,
Sol's for G. B. Turpin, Trustee.

Let each witness be examined separate and apart from each other, and let the commissioners so certify.

BACON & RUTHERFORD,
Sol's for G. B. Turpin, Trustee.

Due and legal service of the within int'ys acknowledged; copy & further service waived. Let commission issue Jan'y 5th, 1885. We nominate Mr. J. H. Mohun, No. 13 Chambers St., & Walter Hodgkins, No. 106 Broadway, as commissioners.

140 BACON & RUTHERFORD,
Sol's for G. B. Turpin, Trustee.

Commission.

UNITED STATES OF AMERICA,
Western Division, Southern District of Georgia:

In the Circuit Court of the United States for the Western Division, Southern District of Georgia.

To Clarence L. Reid and Nathaniel R. Hart, both of Stamford, Fairfield county, Connecticut, Esquires, Greeting:

Know ye that, in confidence of your prudence and fidelity, you are hereby appointed and by these presents are vested (any two or more of you) with full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be exhibited to you in a certain cause pending and to be tried in the said court, wherein Ida Ralston is complainant and George B. Turpin, as trustee for his children named in the pleadings, *et al.*, —, being a bill in equity, as well on the part of the said defendants as on the part of the said complainant or either of them.

And it is required of you (or any two or more of you) that on certain days and at certain places, by you to be appointed for that purpose, you do cause the said Lewis L. Hurlbutt, Henry A. Hubbard, James H. Olmstead, Sarah A. Hubbard, and Patrick McCarthy, witnesses on the part of the complainant, to come before you, and then and there examine them upon the said interrogatories

141 on their corporal oaths first taken before you (or any two or more of you) on the Holy Evangelists, and that you do take such their examinations and reduce them into writing, and when you shall have so taken them you are to send the same to the clerk of the fifth circuit court of the United States for the western division of the southern district of Georgia, at Macon, Georgia, closed up and under your seals (or the seals of any two of you), distinctly and plainly set, together with the said interrogatories and this writ; and, further, that you and each of you, before you act in or be present at the swearing or examining any witness or witnesses, do severally take the oath first specified in the schedule hereunto annexed, and full power is given you or either of you, jointly or severally, to administer such oath to the rest or any other of you upon the Holy Evangelists; and it is further required of you that all and every of the clerk or clerks employed in taking, writing, transcribing, or engrossing the deposition or depositions of witnesses to be examined by virtue of these presents shall, before he or they be permitted to act as clerk or clerks as aforesaid or be present at such an examination, severally take the oath last specified in the said sched-

ule annexed; and full power and authority is also given you or any of you, jointly or severally, to administer such oath to such clerk or clerks upon the Holy Evangelists.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of Macon, this 8th day January, in the year of our Lord one thousand eight hundred and eighty-five, and the one hundred and ninth year of
142 American Independence.

[Seal of U. S. Cir. C't, West. Div., So. Dist. Ga.]

L. M. ERWIN,
Deputy Clerk.

Observe carefully the instructions on the next page.

SCHEDULE.

The Commissioners' Oath.

You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the above commission upon the interrogatories now produced and left with you; and you shall not publish, disclose, or make known to any person or persons whatsoever, except to the clerk or clerks by you employed and sworn to secrecy in the execution of this commission, the contents of all or any of the depositions of the witnesses or any of them to be taken by you and the other commissioners in the said commission named or any of them by virtue of the said commission until publication shall pass by rule or order of said court, so help you God.

CLARENCE L. REID.
NATH'N'L R. HART.

Subscribed and sworn to this 26th day of January, A. D. 1885, by the said Nathaniel R. Hart before me—

CLARENCE L. REID,
Commissioner.

By the said Clarence L. Reid before me—

NATH'N'L R. HART,
Commissioner.

143 *The Clerk's Oath.*

You shall, truly, faithfully, and without partiality to any or either of the parties in this cause, take and write down, transcribe, and engross the depositions of all and every witness and witnesses produced before and examined by the commissioners or any of them named in the commission hereunto annexed, so far forth as you are directed and employed by the said commissioners or any of them to take, write down, or engross the said depositions or any of them;

and you shall not publish, disclose, or make known to any person or persons whatsoever the contents of all or any of the depositions of the witnesses or any of them to be taken, written down, transcribed, or engrossed by you or whereto you shall have recourse or be in anywise privy until publication shall pass by rule or order of the said court, so help you God.

BENJAMIN LOCKWOOD.

Subscribed and sworn to before me this 26th day of January, A. D. 1885.

CLARENCE L. REID,
Commissioner.

Instructions for the Commissioners.

Upon the receipt of the commission one of the commissioners will read it. The acting commissioners and the clerk will take and subscribe the oaths attached to the commission. The commissioners may be sworn one by the other, and the clerk by one of them.

Then they proceed to take and the clerk to engross the depositions of the witnesses, to which depositions there will be a caption stating the case and cause of action in the following form:

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In the Fifth Circuit Court of the United States for the Southern District of Georgia, Western Division.

A B
vs. } Case —.
C D.

Examinations and depositions of witnesses produced, sworn, and examined by the undersigned commissioners, in virtue of the annexed commission issuing out of the honorable the —— court of the United States for the southern district of Georgia, taken and reduced to writing in (the place where the commission is executed) on this — day of ——, 188–.

E F, aged — years, being duly —, answers and deposes as follows, to wit:

To the first interrogatory the witness, answering, saith.

And so on to each successive direct interrogatory.

Then follow the cross-interrogatories, if any.

The witness must subscribe his name at the first of his deposition and in the margin of each sheet, if more than one, and the commissioners attest the same as sworn to and subscribed in their presence. The attestation of the commissioners must appear at the foot of the deposition of each witness, if more than one. The depositions must be attached to the commission. Each commissioner writes his name across a seal of the envelope, and the package is directed to the clerk, as stated in the body of the commission. The

title of the cause must appear on the outside of the envelope. When a commission is returned by mail the postmaster receiving it from the commissioner must certify to the fact, and the post-
145 master delivering it to the court must certify to its reception by due course of mail. The usual abbreviations or initials of Christian names of the commissioners, witnesses, postmasters, etc., shall be sufficient. Rule 51; adopted April term, 1873.

If the commission be returned by a messenger he must deliver it personally to the clerk and make the usual affidavit.

Answers to Interrogatories.

In the Fifth Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON

vs.

GEORGE B. TURPIN, as Trustee for his Children, *et al.*

Examinations and depositions of witnesses produced, sworn, and examined by the undersigned commissioners, in virtue of the annexed commission issuing out of the honorable the fifth circuit court of the United States for the western division of the southern district of Georgia, taken and reduced to writing in Stamford, Fairfield county, Connecticut, on the 30th day of January, A. D. 1885, and on the 2d and 4th days of February, A. D. 1885.

JAMES H. OLMSTEAD, aged 54 years, residing in Stamford, Fairfield county, Connecticut, being duly sworn on the Holy Evangelists, answers and deposes as follows, to wit:

To the first direct interrogatory the witness, answering, saith:
146 I reside in Stamford, Fairfield county, Connecticut, and my professional calling was and is an attorney and counsellor at law.

To the second direct interrogatory the witness, answering, saith: I was acquainted with both of them in Stamford. In February or March, 1881, a lady called on me, at my office, and introduced herself as Ida S. Ralston, and stated that she came to consult me with reference to her husband, James A. Ralston, and after making a statement to me she requested me to call at her house. I did so, and there met James A. Ralston, and spent perhaps two hours with him. Mrs. Ralston was also present. She came to my office several times afterwards while she resided in Stamford to consult me further in regard to her husband's condition.

To the third direct interrogatory the witness, answering, saith: When I entered Mr. Ralston's house I first saw Mrs. Ralston, who stated that her husband was in bed, and that she would inform him that I was present. She left the room, returned in a few moments, say five or ten minutes, and informed me that her husband wished me to come to his room. She led the way upstairs into a room

which I supposed to be a bed-room; there was a bed in it. I saw a man sitting in an easy chair, who seemed wasted almost to a skeleton. Mrs. Ralston introduced me to him as her husband, James A. Ralston. He seemed to be very weak and childish, and when I informed him, as I did, that his wife had requested me to call upon him he burst into tears and said he was glad I had
147 come. I told him, in the presence of his wife, that his wife had informed me that he was very intemperate; that he had no control over himself; that he spent all the money he could get in purchasing intoxicating liquors; that he spent most of his time in drinking saloons, and that he seldom came home sober; that he was spending his property, and that she was comparatively a stranger in Stamford, and that she had come to me to have me advise her what was best to be done. He said it was true what she had stated to me, but that he could not help himself. He had tried repeatedly to stop drinking, but he seemed to have no control over himself. During my statement to him he was crying all the time like a child. I stated that notice had been served on a number of persons who were licensed to sell intoxicating liquors whom I had been informed had been accustomed to sell to him forbidding them to sell to him on the ground that he was accustomed to become habitually intoxicated, and that they could not sell him any more intoxicating liquors without making themselves criminally liable and subjecting themselves to fines, if not imprisonment. He stated that he didn't care what was done if intoxicating liquors were kept away from him. He said he had had the tremens several times. I talked to him some time; asked him if he did not know that he was destroying his own life — fast as possible, as well as his comfort and happiness while he lived. I asked him if he didn't know also that he was destroying the happiness of his wife. He said yes; he did. I asked him further what he proposed to do; that it was impossible
148 for her to live in the house with him as he was conducting himself; that his conduct at times in the presence of his wife and towards her was shameful and many times too indecent to be spoken of. He said he knew it, but he had no control over himself. He admitted that he spent all that he had in his possession, and that except for his wife saving a portion of his income he would have nothing to pay his rent or live upon. I asked him if his wife wasn't a good and true wife to him and was not kind. He replied yes; no one could have a better wife than I have. I asked him why it was that he didn't stop drinking and show his appreciation of her in that way. He burst into a flood of tears and said he would be glad to, but he had no power to control himself, and that he had no control over his will. I said something must be done. He said, Mr. Olmstead, I will do anything in the world you tell me to do, no matter what it is, or I will do anything my wife wants me to do, and, if you will draw up a paper, I will make over all the property I have to my wife. I said, I don't believe you're in a fit condition to make over your property to your wife or to any one else. He says, Why not? I am willing to do anything you say or that my wife says it is right for me to do. I replied, If you were to

make over your property to your wife it should be done, not because I tell you to do it or because your wife tells you to do it, but because you think it is right for you to do it and because you desire to do it. He replied that he hardly knew what to do, but that he would leave it entirely with us and do whatever we desired him to do. I informed him that I did not
149 think it would be proper in the condition of mind he was in for us to advise him to do anything with his property, and that I did not think his mind was in such a condition as to warrant him in conveying his property to any one; that if he did so in his present condition I did not believe it would be worth the paper it was written upon. He replied by asking what he could do. I asked him if he considered an oath sacred. He said he did. I asked him if he was willing to make in writing that he would not drink another drop of intoxicating liquors. He said he was, if he could keep it, but he didn't know whether he could or not; he had broken so many promises that he had made that he didn't know what to think. I asked him if would consider an oath more sacred than a promise. He said he would, and thought he would try it and see if he could keep it. I drew up an affidavit in which he stated he never would drink another drop of intoxicating drinks as long as lived. He made oath to it before me, and by his request I gave it to his wife.

To the next direct interrogatory, which is also numbered third, the witness, answering, saith: They were keeping house at the time, in a house which he stated belonged to Henry A. Hubbard, and of whom he rented it. I have no knowledge that he was engaged in any business while he resided in Stamford. I remember that during the conversation, which all occurred in the presence of his wife, that his wife spoke up and said, I have to attend to all of Mr. Ralston's matters; he
150 neglects everything, and I can't get him to take anything relating to his matters, and it's a great bother to me, because I don't understand business matters. He replied, I can't help it; I have tried to fix my mind on business, and I can't do it; there is no use of making any further trial. She also stated in the conversation in his presence that he was just like a child. She had to carry him up and down stairs in her arms, dress and undress him, and part of the time feed him. He replied, Yes, my wife is just as kind to me as she can be. I said, Why in the world, then, don't you become a man and treat her as you ought to? He burst into tears again and said, I will if I can, God help me. This is the substance of the conversation. On reflection, I don't think I ever saw him afterwards. From the conversation I had with him at that time and from his general appearance and actions, I at that time came to the conclusion that his mind, and especially his will power, was a complete wreck; that it had been brought about by excessive and constant indulgence in the use of intoxicating liquors. I was at that time of the opinion that if I had requested it, he would have conveyed all that he had in the world to me as willingly as he took the oath not to drink. I firmly believe that his wife, or any one he

was brought closely in contact with, could have induced him to make any disposition of his property they wished ; that they could have induced him to do almost anything except to stop drinking intoxicating liquors.

To the direct interrogatory numbered five the witness, answering saith : I have nothing further to communicate that occurs to my present recollection, except what I have already stated.

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In reply to the first cross-interrogatory the witness, answering, saith : No.

To the second cross-interrogatory the witness, answering, saith : No.

To the third cross-interrogatory the witness, answering, saith : I do not know what was his condition at the time he signed said deeds.

To the fourth cross-interrogatory the witness, answering, saith : All I know of James A. Ralston, while he lived in Stamford, I have already fully related. I have heard a great deal about him while he lived in Stamford, but I have no further personal knowledge.

To the fifth cross-interrogatory the witness, answering, saith : The statement which I have already made, it seems to me, fully answers this cross-interrogatory, because I never saw him but this one time, and no one was present at the time except himself, his wife, and myself, and I have stated all that I remember at this time of what occurred while we were together.

To the sixth cross-interrogatory the witness, answering, saith : That the statement already made fully answers this cross-interrogatory, except to state that at the time I saw him he had the appearance of being perfectly sober and not under the influence of intoxicating liquors, except the effects which they had produced upon his body and mind, and which were clearly discernible at the time.

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To the seventh cross-interrogatory the witness, answering, saith : The only opportunity I have had to ascertain the mental condition of James A. Ralston was at the time I met him at his house, and which I have fully stated heretofore. As to whether I am an expert on the subject of mental soundness I can only say that I have had six or seven will cases in courts, in each of which the principal question has been whether the testator or testatrix was of sound and disposing mind and memory. I was for six years prosecuting attorney of the county of Fairfield, and during that time I prosecuted four or five persons for the crime of murder, in which the defense was, plea of insanity. These cases necessitated a pretty thorough study of the brain and nervous system. I read a great many works upon the subject, and became so interested in it as to give the subject of insanity a pretty thorough study, during the period covered by the trials referred to, which study I have kept up more or less till the present time.

JAMES H. OLMSTEAD.

Subscribed and sworn to before us this 30th day of January, A. D. 1885.

CLARENCE L. REID,
NATHAN'L R. HART,
Commissioners.

153 *Deposition of Sarah A. Hubbard.*

In the Fifth Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON

vs.

GEORGE B. TURPIN, as Trustee for His Children, *et al.*

SARAH A. HUBBARD, aged 39 years, residing in Stamford, Fairfield county, Connecticut, being duly sworn on the Holy Evangelists, answers and deposes as follows, to wit:

To the first direct interrogatory the witness, answering, saith: In Stamford, Fairfield county, Connecticut, I have no professional calling.

To the second direct interrogatory the witness, answering, saith: I was acquainted with both James A. Ralston and Ida Ralston, his wife, in Stamford, from April 1st, 1880, to April 1st, 1881, when they resided in my husband's, Henry A. Hubbard's, house, next door to my own house, and since that time I have exchanged visits with Mrs. Ralston a number of times and have seen Mr. Ralston once or twice in New York.

To the third direct interrogatory the witness, answering, saith: I do not think that at any time he was capable of transacting
154 business, and he did not live a sober and temperate life. Even when he was not under the influence of liquor I never knew him to be able to converse intelligently and connectedly about even ordinary matters. In any business transaction his wife always attended to them, even paying rent and store bills. When he was intoxicated his wife had to wait on him like a child, even dressing and undressing him. For the first month he resided in Stamford he was comparatively sober. After that time I can safely say I never saw him when he was not more or less under the influence of liquor. He was very abusive and ugly when he was under the influence of liquor. He would at times get so bad that his wife would have to lock his clothes up and keep him in his room. I have been at his house and seen him brought home in a beastly state of intoxication, when he would fall on the floor and his wife would carry him upstairs as best she could. His physical and mental condition seemed very weak at all times. He was excessively drunk most of the time. One night when I was there it took his wife two hours to get him from the front door half way upstairs, where she was compelled to leave him. I lived next door during the whole year of his occupancy of my husband's house, and was in and out about once or twice a day and usually saw him.

To the next direct interrogatory, which is also numbered third, the witness, answering, saith: During the time he resided in Stamford Mr. Ralston was not engaged in any business. Mr. Ral-
155 ston and his wife were housekeeping and Mrs. Ralston had charge of all business and domestic affairs. Mr. Ralston never transacted business of any kind, but left it all for his wife. When she referred anything to him I have heard him say, "Ida, you do it; you know I can't think." He was not capable of transacting business of any kind as men ordinarily attend to their business. From what I knew of him he was a person of weak mind, and his condition was such that he could be very easily influenced. When he was under the influence of liquor almost any one could influence him. At other times he was easily influenced by those he liked or had confidence in. On one occasion Mrs. Ralston sent for me to come to their house. She said in the presence of Mr. Ralston, who appeared to be recovering from the effects of a debauch, that she had made up her mind to leave; that she couldn't endure longer what she had just passed through with regard to her husband's habits. Mr. Ralston cried like a child, and said that he would do anything she wanted if she wouldn't leave him, and that if she would send for a lawyer he would sign papers that he wouldn't drink for a year. I further base my opinion upon what I saw of Mr. Ralston constantly.

To the direct interrogatory numbered five the witness, answering, saith: I remember seeing a liquor bill from one place, covering a period of one month, amounting to eighty (80) dollars. I never
156 saw any liquor in the house, nor have I ever seen Mrs. Ralston use liquor, although I was with her frequently and constantly.

To the first cross-interrogatory the witness, answering, saith: No.

To the second cross-interrogatory the witness, answering, saith: No.

To the third cross-interrogatory the witness, answering, saith: I do not know Mr. Ralston's condition at the time he signed said deeds.

To the fourth cross-interrogatory the witness, answering, saith: Yes, so far as I know.

To the fifth cross-interrogatory the witness, answering, saith: I do not know who Mr. Ralston's intimate friends were, nor the names of those persons in whom he had confidence. I have given all the facts which I now remember in this connection.

To the sixth cross-interrogatory the witness, answering, saith: I lived next door; I was not his intimate, personal friend. I
157 had simply a neighborly acquaintance with him. I saw him almost every day during the year he lived in Stamford. In speaking of his mental condition as weak I refer both to the time when he was drinking and when he was sober.

To the seventh cross-interrogatory the witness, answering, saith: I am not an expert on the subject of mental soundness. I know nothing further of Mr. Ralston's mental condition than I have already stated.

SARAH A. HUBBARD.

Subscribed and sworn to before us this 30th day of January, A. D. 1885.

CLARENCE L. REID,
NATH'L R. HART,
Commissioners.

Deposition of Henry A. Hubbard.

In the Fifth Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON

vs.

GEORGE B. TURPIN, as Trustee for His Children, *et al.*

HENRY A. HUBBARD, aged 52 years, residing in Stamford, Fairfield county, Connecticut, being duly sworn on the Holy Evangelists, answers and deposes as follows, to wit:

To the first direct interrogatory the witness, answering,
158 saith: I reside in Stamford, Fairfield county, Connecticut; real estate and insurance agent.

To the second interrogatory the witness, answering, saith: I was acquainted with both in the spring of 1880, when they came to Stamford together and lived in one of my houses for one year. I never saw Mr. Ralston after he left here, but I have met Mrs. Ralston since.

To the third direct interrogatory the witness, answering, saith: He did not live a sober and temperate life. I have seen him drunk on many occasions. He was nervous, very excitable; his countenance indicated high living; he was very passionate; he was physically and mentally shattered. I think he would average a spree once a week. On one occasion, when intoxicated, he threatened to shoot me, and on another occasion I sent men there to work, to do something they had requested me to do, and he threatened to shoot them if they did not leave the premises. On one occasion, when he was intoxicated, I was two hours getting him home, about three-quarters of a mile, and had to abandon him on the way and get help. He has been in my office drunk dozens of times; so drunk that he was entirely unfit for business. When not intoxicated there were but few times during the year that I knew him when he seemed to be in a fit condition to do business. When sober his
159 dependence seemed to be upon his money, as if that were all that was necessary to entitle him to the right to brush every one out of his way. He boasted that his money privileged him to do pretty much as he pleased. That was the habit of the man. I lived next door to him, and saw him almost daily. He was in my office, on an average, once a week during the year that he occupied my house.

To the next direct interrogatory, also numbered third, the witness, answering, saith: I know of no business Mr. Ralston did at that

time. He and his wife lived by themselves, in my house, with their servants. I do not know who looked after or attended to their ordinary business or domestic affairs; I only know that Mrs. Ralston looked after him pretty sharply to keep him from wasting his money. I never had any business transactions with him except in the presence of his wife or with her approval. I would not judge Mr. Ralston to be a capable business man, or fit to do business as men ordinarily do it. I base my opinion principally on the fact that in various conversations with him it was difficult to keep his attention on any one subject long at once. He was willful and unnecessarily contrary at times; but on the whole I should consider him mentally weak. I think those that he had confidence in easily influenced him to almost any course. He spoke to me frequently of some gentleman in the South by the name of
160 Turpin whom he considered a great friend, and in whose judgment he had great confidence. He said Mr. Turpin attended to his business in the South. I was led to believe, from what Mr. Ralston said, that Mr. Turpin knew more about his affairs than he (Ralston) himself.

To the direct interrogatory numbered fifth the witness, answering, saith: I think of nothing further in this connection than I have already set forth.

To the first cross-interrogatory the witness, answering, saith: No.

To the second cross-interrogatory the witness, answering, saith: No.

To the third cross-interrogatory the witness, answering, saith: I do not know Mr. Ralston's condition at that time.

To the fourth cross-interrogatory the witness, answering, saith: That was my supposition; and true, as far as I know.

To the fifth cross-interrogatory the witness, answering, saith:
161 I cannot give any names of persons he had confidence in, except from several conversations I had with Mr. Ralston. I judged he had great confidence in Mr. Turpin, whom I mentioned before, and to whom I was once introduced by Mr. Ralston. Of all the persons whom Mr. Ralston spoke of as his friends, I should judge that Mr. Turpin had more influence over him than any one else. I remember nothing more in this connection than what I have already stated.

To the sixth cross-interrogatory the witness, answering, saith: I lived next door to him (Mr. Ralston). I was a neighborly acquaintance, and saw him almost daily. I refer to his mental condition both drunk and sober.

To the seventh cross-interrogatory the witness, answering, saith: I am not an expert on the subject of mental soundness. I have never made any medical examination of Mr. Ralston for any purpose. I know nothing further in this connection than what I have already answered to the best of my remembrance.

HENRY A. HUBBARD.

Subscribed and sworn to before us this 30th day of January, A. D. 1885.

CLARENCE L. REID,
NATH'L R. HART,
Commissioners.

162 *Deposition of Lewis R. Hurlbutt.*

In the Fifth Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON

vs.

GEORGE B. TURPIN, as Trustee for His Children, *et al.*

LEWIS R. HURLBUTT, aged 64 years, residing in Stamford, Fairfield county, Connecticut, being duly sworn on the Holy Evangelists, answers and deposes as follows, to wit:

To the first direct interrogatory the witness, answering, saith: I reside in Stamford, Fairfield county, Connecticut, and my professional calling was and is a practicing physician.

To the second direct interrogatory the witness, answering, saith: I was acquainted with both in Stamford during part of the years 1880 and 1881. I do not recollect having seen either of them since.

To the third direct interrogatory the witness, answering, saith: He was weakened both physically and mentally, it seemed to me, by his habits. That he did not live a sober and temperate life I knew from personal observation and common report and his own confession. I suppose during the time I knew him I called professionally at his house thirty or forty times usually to see him. On
163 these occasions it was plain to me, as a physician, that he was a very intemperate man and very much broken down, physically and mentally, by his intemperate habits.

To the next direct interrogatory, also numbered three, the witness, answering, saith: He didn't appear to have any regular business. I do not know who looked after or attended to his ordinary business or domestic affairs. Mr. Ralston and his wife lived in a residence by themselves. Mr. Ralston was not, in my judgment, during the time I knew him, capable, mentally, to attend to or transact business as men ordinarily attend to their business. My conclusion is based upon the impressions which I derived from my professional intercourse with him. I think that Mr. Ralston could be easily influenced by persons who possessed his confidence.

To the direct interrogatory numbered fourth the witness, answering, saith: I have been in regular practice in Stamford for nearly thirty-three years, according to the regular school usually known as allopathic.

To the direct interrogatory numbered fifth the witness, answering, saith: I think of nothing now in this connection further than I have already testified.

To the first cross-interrogatory the witness, answering, saith:
164 I did not know James Ralston prior to 1880, nor while he lived in Macon, Georgia, nor while he was growing up in Georgia. I knew nothing of his habits, his disposition, or anything about him prior to 1880, from personal knowledge or acquaintance, except what he told me himself. My acquaintance with him confirmed what he said about his previous habits. His condition, when I knew him, both mentally and physically, could only have been the result of a long-continued course of dissipation.

To the second cross-interrogatory the witness, answering, saith: No.

To the third cross-interrogatory the witness, answering, saith: I do not know anything about his particular condition at the time, because I do not know when he signed said deeds, if at all; but I do know his condition was such, when I knew him, that if the deeds referred to were signed about that time or afterwards he could not have been a sound man, mentally and physically, at the time he signed them.

To the fourth cross-interrogatory the witness, answering, saith: So far as I know, Mr. Ralston had no business while he lived in Stamford, and was a person of leisure. I supposed that he lived upon his money, having no business of any kind.

165 To the fifth cross-interrogatory the witness, answering, saith: I cannot give the names of those persons in whom Mr. Ralston had confidence, or state any further facts in this connection. I had no occasion to know anything about it.

To the sixth cross-interrogatory the witness, answering, saith: I did not stay in the same house with him. I was not his intimate, personal friend. I only had such an acquaintance with him as a physician would naturally have with his patient. I cannot tell how often a month I saw him. I refer to his general mental condition, both drunk and sober.

To the seventh cross-interrogatory the witness, answering, saith: I consider myself an expert on the subject of mental soundness. I am not a specialist on that subject. My experience has been that of a physician in active practice for about thirty-five years in all classes of disease. I have been called as a witness in court in this State as an expert on the subject of mental soundness. I never made any medical examination for the purpose of ascertaining Mr. Ralston's mental condition. There was no occasion for it, but I could not fail to observe his mental condition. I do know more about Mr. Ralston's mental condition than the mere fact that he would at times drink intoxicating liquors.

LEWIS R. HURLBUTT.

Subscribed and sworn to before us this 2d day of February, A. D. 1885.

166 CLARENCE L. REID,
NATH'L R. HART,
Commissioners.

Deposition of Patrick McCarthy.

In the Fifth Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON

vs.

GEORGE B. TURPIN, as Trustee for His Children, *et al.*

PATRICK MCCARTHY, aged about 40 years, residing in Stamford, Fairfield county, Connecticut, being duly sworn on the Holy Evangelists, answers and deposes as follows, to wit:

To the first direct interrogatory the witness, answering, saith: I reside in Stamford, Fairfield county, Connecticut; I am a gard-ner and general laborer.

To the second direct interrogatory the witness, answering, saith: I was acquainted with both. I knew them from spring to the fall of 1880, during which time I took care of the place as a gard-ner and worked generally about the place.

To the third direct interrogatory the witness, answering,
167 saith: Mr. Ralston, during most of the time that I was there, was drunk. He acted to me as if he was crazy. He did not live a sober and temperate life. Even when not intoxicated he acted like a crazy man. I had to go for brandy and lager for him frequently, and I have often helped him home from drinking-places. When he wasn't in rum-holes drinking he was drunk in the house, and going about in his night clothes in the daytime. He was drunk weeks at a time, and used to go about the house crying. He said the reason he cried was that he was thinking of shooting Mrs. Ralston because she was trying to keep him sober. Mr. Ralston's manner was very rough to those about the house. I saw him almost every day. He would give you any thing he had, even the clothes off his back, if you would take them. His mind was so weak that once could twist him around his finger, whether he was drunk or sober. I base my opinions and conclusions upon what I saw of him every day.

To the next interrogatory, also numbered third, the witness, answering, saith: Mr. Ralston had no business at the time I have mentioned. He and his wife lived in a residence by themselves. Mrs. Ralston, his wife, attended to everything, both the business and domestic affairs. Mrs. Ralston gave me the orders about the place, usually, but he did sometimes—very seldom. Mr. Ralston was not, during the time I knew him, capable, mentally, of attending to or transacting business as men ordinarily attend to their business. I
168 have given the facts on which my answer is made from my knowledge of him. He was a person of weak mind, and his condition was such that he could be easily influenced by persons he liked. I never saw him influenced, but he acted to me like one that could be easily influenced.

To the direct interrogatory numbered fifth the witness, answering, saith: I don't remember anything more about this matter.

To the first cross-interrogatory the witness, answering, saith: No.

To the second cross-interrogatory the witness, answering, saith: No.

To the third cross-interrogatory the witness, answering, saith: I don't know what his condition was at that time.

To the fourth cross-interrogatory the witness, answering, saith: Yes.

To the fifth cross-interrogatory the witness, answering, saith: I have already stated all I remember about it.

To the sixth cross-interrogatory the witness, answering, saith: I did not stay with him in the same house, except when my duty
169 would require. I was a good friend of his. He talked with me and told me about everything. I saw him every day and used to go to his room. I refer to his mental condition both when he was drinking as well as when he was sober.

To the seventh cross-interrogatory the witness, answering, saith: I am not an expert on the subject of mental soundness. I never made any examination of Mr. Ralston for any purpose. I have already stated what I know about Ralston's mental condition.

PATRICK McCARTHY.

Subscribed and sworn to before us this 4th day of February, A. D. 1885.

CLARENCE L. REID,
NATH'L R. HART,
Commissioners.

UNITED STATES OF AMERICA, }
District of Connecticut, Stamford, } *ss:*

I, Clarence L. Reid, of Stamford, in the county of Fairfield and State of Connecticut, a commissioner nominated by the complainant to take testimony under and in pursuance of the foregoing commission, do hereby certify that I gave notice to J. H. Mohun, 13 Chambers St., New York, and Walter Hodgkins, 300 Broadway, New York, commissioners nominated by the defendants to take testimony under said commission; that I had received said commission to examine the following witnesses for the complainant in said cause, to wit:
Lewis R. Hurlbutt, Henry A. Hubbard, James H. Olmstead,
170 Sarah A. Hubbard, and Patrick McCarthy, all of said Stamford; that under and in pursuance of the same I should take the testimony of said witnesses at my office, Ayres' building, Atlantic Sq., in said Stamford, on Monday, January 26th, 1885, at 9 o'clock forenoon; that the commissioners nominated by defendants were said Mohun and said Hodgkins, residing as aforesaid; that they should appear, if they saw cause, at said time and place; that said notice was in writing and was deposited in duplicate in the post office at said Stamford, postage fully prepaid, on the 12th day of January, 1885, one copy addressed to said Mohun as aforesaid and the other addressed to said Hodgkins as aforesaid; and I caused the several persons named as witnesses in said commission as afore-

said to be subpœnaed to appear before me as commissioner as aforesaid, at my said office, on said 26th day of January, 1885, at 9 o'clock forenoon.

On said 26th day of January, 1885, I was at my said office at 9 o'clock forenoon. Both said Mohun and said Hodgkins failed to appear at said time and place under and in pursuance of said notice. Having waited until the hour of 10 o'clock forenoon, and said Mohun and said Hodgkins still failing to appear, I thereupon nominated and requested and appointed Nathaniel R. Hart, of said Stamford, to act as commissioner in place of said Mohun and Hodgkins.

Whereupon we, the said Reid and said Hart, having taken the oath prescribed by said commission, and having appointed and sworn Benjamin Lockwood, of said Stamford, as clerk, under and in pursuance of the same, proceeded, on the
171 said 26th day of January, 1885, and subsequently, in accordance with successive adjournments, on the 30th day of January, 1885, and on the 2d and 4th days of February, 1885, to take the testimony hereinbefore set forth of James H. Olmstead, Sarah A. Hubbard, Henry A. Hubbard, Lewis R. Hurlbutt, and Patrick McCarthy, the witnesses named in said commission, having them first duly cautioned and sworn on the Holy Evangelists to tell the truth, the whole truth, and nothing but the truth, propounding to each witness severally, separately, and apart from the others the several interrogatories and cross-interrogatories accompanying said commission and annexed thereunto. Each of said witnesses severally subscribed to his and her deposition in our presence, and, the same having been read over to him or her, each witness before us made solemn oath to the truth of the same.

Dated at said Stamford, this 4th day of February, A. D. 1885.

Attest:

CLARENCE L. REID,
NATH'L R. HART,
Commissioners.

Endorsements on Envelope Containing Above Depositions, &c.

On the face.

U. S. Fifth Circuit Court for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON

vs.

GEORGE B. TURPIN, as Trustee for His Children, *et al.*

Filed the 7th day of August, A. D. 1883.

172 To the clerk of the United States fifth circuit court, western division of the southern district of Georgia, Macon, Georgia.

Depositions of Lewis R. Hurlbutt, Henry A. Hubbard, James H. Olmstead, Sarah A. Hubbard, Patrick McCarthy, witnesses on the part of complainant.

On the back.

I, Clarence L. Reid, one of the commissioners on the within commission, do hereby certify that I have this day deposited in the post office at Stamford Connecticut, the enclosed commission and depositions for transmission by mail to Macon, Ga.

This 13th day of February, 1885.

CLARENCE L. REID,
Commissioner.

POST OFFICE, STAMFORD, CONN.

Received this package from Clarence L. Reid, commissioner, to be transmitted by mail to Macon, Ga., this 13th day of February, 1885.

L. L. BEYENT, *Postmaster.*

POST OFFICE, MACON, GA.

Received this package by due course of mail this 17th day of Febr'y, 1885.

H. F. BRIMBERRY,
Ass't P. M.

173 Received by mail and filed this 18th day of Feb'y, 1885; one seal broken.

L. M. ERWIN,
Deputy Clerk.

(Across the seals on back:) Nath'l R. Hart, commissioner; Clarence L. Reid, commissioner.

Order to open.

Rec'd this package of int's from postmaster, Macon, Ga., with leave to open in open court, May 6th, 1885.

EMORY SPEER.

Commission to Examine Ida Ralston, a Witness on Behalf of Complainant.

In the Fifth Circuit Court of the United States for the Southern District of Georgia, Western Division. In Equity.

IDA RALSTON
vs.
GEORGE B. TURPIN, as Trustee of His Children, *et al.*

Interrogatories.

Interrogatories to be propounded to Mrs. Ida Ralston, the complainant in the above-stated case, a material witness for complainant therein, and who resides without the State of Georgia and in the city, county, and State of New York.

Int'y 1st. Where did you reside in the year 1880, and where
174 during the year 1883? State when, where, and by whom you were married to James A. Ralston, if you were married

to him at all. When and where did he die, and where buried? State whether or not you and he lived together as husband and wife from the time you became his wife till his death.

Int'y 2d. Where did your husband and you reside the latter part of August, in the year 1880? If any person or persons from Macon, Ga., called to see you and him there, who called, about what time, and what was said and done by them to and with yourself and husband, James A. Ralston, at that time? State fully.

Int'y 3d. If any paper was brought by said Turpin or other person requesting or urging him, your said husband, James A., to sign, state all that took place concerning it, when, where, what sort of paper, and all the circumstances connected with it. If you say the paper referred to was the deed respecting the Ralston Hall property, in Macon, Georgia, a copy of which is attached to the complainant's bill in said cause, state where said deed was prepared, and who by. Who read the paper to your husband, if any one? Whether your husband and yourself fully understood the contents of it or not or the value of the property described in the deed, especially as compared with the other property he then owned in Macon. Was its value greater or less than his other property in comparison than he and you supposed at the time that deed was signed? How long had you been married to said James A. before that deed was so
175 brought for him to sign? What knowledge did you then have of the value of his property? What notion did he, said James A., have as to his property? What did said Turpin say as to the comparative value of said Ralston Hall property?

Int'y 4th. What attention did said James A. give to his property interests or to his domestic affairs from shortly after your marriage to him till his death? State whether or not you "boarded" or "kept house" after your marriage. If you say you kept house, state whether or not he gave any attention to his and your domestic affairs; who attended to them. What were his habits as to the use of intoxicating liquors after your marriage with him? State if he was sober or not any time after the marriage; and, if he was, how long he so remained, and state his condition, mentally and physically, thereafter, and state the facts or reasons on which you give your answer. State whether or not, at the time said deed was made or at any time afterwards up to the time of his death, the said James A. had a proper conception as to the value of property; whether or not he was extravagant in the use of money, and the like; whether or not he was easily influenced by those he regarded as his friends, and especially by any person or persons who may have placed him under obligations or to whom he believed himself under such personal obligations.

Int'y 5th. After your marriage with the said James A. how did you and he get on together; how did you treat him, and how did he treat you? If there was at any time any trouble at all be-
176 tween you how did it come about; what was the character of it, and what the origin or cause of it? State what was your general conduct towards him as his wife and his towards you as

your husband. If he was in bad health at any time or sick who cared for him, if any one, and in what manner?

Int'y 6th. What was the condition of said James A. at the time the second deed (referred to in your bill in said cause) was made, as to body and mind, and from that time up to his death? If you say both were impaired, state to what extent and from what cause. State fully. If you say that said James A. was addicted to the excessive use of ardent spirits, state what influence, if any, was used by any person to stop him from such use, and by whom. If you say you were that person, state whether or not you succeeded. What influence, if any, did said George B. Turpin have over him (James A.) in 1880, 1881, and 1882, much or little, and how — you know? State any facts you may know as to said Turpin's power or control over him, and how he, said James A., regarded him, Turpin. State particularly everything you know going to show that Turpin tried to ingratiate himself with said James A. or going to show that he had influence over him, or that Turpin tried to make said James A. think that Turpin was his friend or that Ralston was under obligation to him for favors or devotion to his interests, or because of Turpin's concern or anxiety for his welfare.

177 Int'y 7th. State the circumstances under which said second deed was signed, what induced you to assent thereto, & to the former one, if in fact you did assent, what you then knew as to the business and social relation existing between said Turpin and your husband then and before, and what induced you to sign your assent to said deeds; whether or not you understood that said business and other relations were such, describing them, as to induce your assent thereto without inquiry; what confidence, if any, you had in said Turpin growing out of those relations, and state any other fact or circumstance that induced your assent thereto or that caused the said James A. to sign said deeds, if you know.

8th Interrogatory. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

LANIER & ANDERSON,
Solicitors for Complainant.

(Endorsement:) Ida Ralston *vs.* George B. Turpin, trustee, &c., *et al.* Interrogatories for complainant. Filed in office Jan'y 8th, 1885. L. M. Erwin, deputy clerk. Lanier & Anderson.

178 *Acknowledgment.*

Due and legal service acknowledged on the within int'ys and all further service waived. Let commission issue. We nominate T. H. Mohun, an att'y-at-law, No. 13 Chambers St., New York city, & Walter Hodgkins, No. 300 Broadway, of New York city.

BACON & RUTHERFORD,
Sol's for Geo. B. Turpin, Trustee.

Cross-Interrogatories.

1 X Int'y. Where did you reside when you first came to Macon, Ga? Did you stay for awhile at a house kept by Zella Ivey, and did not Zella Ivey keep a lewd house, and did not James Ralston see you at this lewd house and at other lewd houses in the city of Macon, State of Georgia? Did you not while in these lewd houses exercise more influence over James Ralston than George B. Turpin? Did not George B. Turpin endeavor to withdraw James Ralston from under your influence? Did he not endeavor to get you to go away from Macon for the purpose of removing James Ralston from your influence and to prevent him from associating with you, and did he not fail in his efforts? Did not Ralston either go with you or follow you North, and were you not married at the North, and was not the marriage kept secret from Geo. B. Turpin? How long after your marriage before Mr. Turpin heard of it?

2d X Int'y. In how many houses of ill-fame did you stop
179 at while in Macon, and how many times did Ralston visit you at these houses before he married you?

3 X. Is it not true that at these houses of ill-fame that you frequently drank intoxicating liquors with James Ralston, and did not he and you on various occasions get drunk while drinking together?

4 X. Is it not true that Geo. B. Turpin did do all in his power to prevent James Ralston from visiting you at these houses of ill-fame, because he did not consider you a proper character or the houses you stopped at proper places for James Ralston to visit, and because he did not consider it right or proper that James Ralston should be drinking liquor with you at such places?

5 X. State whether or not Mr. Turpin succeeded in removing James Ralston from your influence; state who had the greater influence over him, you or Mr. Turpin.

6 X. Is it not true that before your marriage and while James Ralston was visiting you in houses of ill-fame in the city of Macon that he quarrelled with you on different occasions, which quarrels sometimes ended in blows? If these quarrels did not end in blows, state the nature and extent of them.

180 7 X. Considering the character that you then bore, the houses at which you stopped, the class of people you associated with and lived amongst, was it improper in Mr. Turpin to endeavor to stop James Ralston from associating with you at such places?

8th X. To how many different places did James Ralston follow you, or at how many places did he meet you before your marriage?

9 X. Is it not true that James Ralston quarreled with you—got mad with you—at times before your marriage, and is it not true that he went back to you and followed you or went with you to different places? Then please state what influence did you exercise over him to induce him to stick to you.

10 X. If you say he was of such weak mind as not to be able to attend to any business, why did you marry him or permit him to marry you?

11 X. Is it not true that before James Ralston ever married you he had made a will leaving this same property (the Ralston Hall property) to Geo. B. Turpin, as trustee for his children? How do you explain, then, that James Ralston had mind enough to marry you, but not mind enough to will or do with his property as he saw fit?

12 X. Did not James Ralston make a deed to you to certain stores in the city of Macon about the time he made the deed to
181 Geo. B. Turpin, trustee for his children, either before or just afterwards? State whether before or afterwards.

13 X. Please explain how James Ralston had sense enough or mind enough to make a deed to you and not sense or mind enough to make a deed to Geo. B. Turpin.

14 X. Is it not true that after March, 1882, Jas. Ralston commenced to drink more than he ever did before and grew worse and treated you worse and abused you more than he had ever done before, and is it not true that you had never seen him act as he did after March, 1882, and did he not after that time become a changed man and was not his abuse of you awful, and did he not after that time strike you as if you were a dog, and did you not write all this in a letter dated June 28th, 1882, to Geo. B. Turpin, making these complaints of James Ralston?

15 X. Did not James Ralston buy a pair of horses and a carriage, taking the receipt in your name, and did he not want to sell them & did you not refuse to permit him to sell them, and did not James Ralston threaten to employ a lawyer to sue you for them?

16 X. Did not James Ralston charge you with spending his money and that you caused him to drink?

182 17 X. Did you not quit him and go to the hospital, and did he not call for the trunks there, and, on being refused, did he not threaten to send the sheriff for them?

18 X. After James Ralston deeded you the property in Macon did you not separate from him for awhile? State how often you separated from him after he deeded you the property. After he deeded you the property did you not endeavor to get a divorce from said Ralston; if not, did you not threaten to get a divorce from him?

19 X. While you were away from Jas. Ralston did he not threaten to withdraw all support from you while you were separated from him?

20 X. Did you not write or telegraph to Mr. Turpin not to send any money to James Ralston & did not James Ralston both write & telegraph to Mr. Turpin not to send any money to you? Did he not, on Dec. 17th, 1881, get Mr. Jas. Edward Grayhill to telegraph to Mr. Turpin not to send any more money to you?

21st X. After James Ralston made the deeds to you did you not have frequent quarrels, and did not James Ralston when sober make threats that the papers would not hold good and that before

you should derive any benefit from them he would go to his aunt and show her where she could bring in a claim, and did you not so write to Mr. Geo. B. Turpin from New York on Oct. 10th,
183 1882, and did you not say that James Ralston showed "a mean and vindictive spirit," and did you not write to Mr. Turpin asking him to see that the papers were all right, and did you not write to Mr. Turpin saying that you knew he would not tell you anything but what was right?

21st. Is it not true that, while Mr. Turpin endeavored to break off your connection with James Ralston prior to your marriage, that after you were married did he not endeavor and persuade you not to separate from him, and did he not so write you, and did he not beg and entreat you to do all you could to stop his drinking? Did you not, long after you and James Ralston signed the deeds to Geo. B. Turpin, write to Mr. Turpin and sign your letters as his friend, and did you not ask his advice on various matters and express confidence in him, and did you not do all this after the deeds had been signed & after you knew all about James Ralston's property and after Turpin had written to you asking you not to separate from James Ralston & begging you to do what you could to prevent his drinking?

BACON & RUTHERFORD,
Sol's for Geo. B. Turpin, Trustee.

We object to this witness testifying because she is a party to the deeds to set aside, and James Ralston, one of the parties thereunto, is dead. We object further to her testifying to what occurred
184 between her and James Ralston, she being his wife. We object to 3d, 4th, & 5th int'ys because the same are not relavant or pertinent to any issue in this cause. We object to 8th int'y because in does not disclose the nature of testimony elicited sufficiently plain to cross-examine the witness as to such matters. We object to any answers as to witness' opinion as to Ralston's mental soundness, she not being an expert.

BACON & RUTHERFORD,
Sol'rs for Geo. B. Turpin, Trustee.

184½ *Commission to Examine Witnesses.*

UNITED STATES OF AMERICA,
Western Division, Southern District of Georgia:

In the Circuit Court of the United States for the Southern District of Georgia.

To Charles W. Pleasants and Joseph H. Mahan, Esquires, Greeting:

Know ye that, in confidence of your prudence and fidelity, you are hereby appointed and by these presents are vested (any two or more of you) with full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be exhibited to you in a certain cause pending and to be tried in the said court,

wherein Ida Ralston is complainant and George B. Turpin, as trustee for his children, *et al.* named in the pleadings (being a bill in equity in said court) are defendants, as well on the part of the said defendants as on the part of the said complainant or either of them.

And it is required of you (or any two or more of you) that on certain days and at certain places, by you to be appointed for that purpose, you do cause the said Ida Ralston, the witness on the part of the complainant, to come before you, and then and there examine her upon the said interrogatories on her corporal oath, first taken before you (or any two or more of you), on the Holy Evangelists, and that you do take such her examination and reduce it into writing, and when you shall have so taken it you are to send the same to the clerk of the fifth circuit court of the United States for the western division of the southern district of Georgia, at Macon, Georgia, closed up and under your seals (or the seals of any two of you), distinctly and plainly set, together with the said interrogatories and this writ; and, further, that you and each of you, before you act in or be present at the swearing or examining any witness or witnesses, do severally take the oath first specified in the schedule hereunto annexed, and full power is given you or either of you, jointly or severally, to administer such oath to the rest or any other of you upon the Holy Evangelists: and it is further required of you that all and every of the clerk or clerks employed in taking, writing, transcribing, or engrossing the deposition or depositions of witnesses to be examined by virtue of these presents shall, before he or they be permitted to act as clerk or clerks as aforesaid or be present at such an examination, severally take the oath last specified in the said schedule annexed, and full power and authority is also given you or any of you, jointly or separately, to administer such oath to such clerk or clerks upon the Holy Evangelists.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of Macon, this 8th day of January, in the year of our Lord one thousand eight hundred and eighty-five, and the one hundred and ninth year of American Independence.

[L. S. of the Court.]

L. M. ERWIN,
Deputy Clerk.

Observe carefully the instructions on the next page.

184⅝ SCHEDULE.

The Commissioner's Oath.

You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the above commission upon the interrogatories now produced and left with you; and you shall not publish, disclose, or make

known to any person or persons whatsoever, except to the clerk or clerks by you employed and sworn to secrecy in the execution of this commission, the contents of all or any of the depositions of the witnesses or any of them, to be taken by you and the other commissioners in the said commission named, or any of them, by virtue of the said commission, until publication shall pass by rule or order of said court, so help you God.

CHARLES W. PLEASANTS.
JOS. H. MAHAN.

Subscribed and sworn to before me this 14th day of March, A. D. 1885.

CHARLES W. PLEASANTS.
JOS. H. MAHAN.

The Clerk's Oath.

You shall truly, faithfully, and without partiality to any or either of the parties in this cause, take and write down, transcribe and engross, the depositions of all and every witness and witnesses produced before and examined by the commissioners or any of them named in the commission hereunto annexed, so far forth as you are directed and employed by the said commissioners or any of them to take, write down, or engross the said depositions or any of them; and you shall not publish, disclose, or make known to any person or persons whatsoever the contents of all or any of the depositions of the witnesses or any of them to be taken, written down, transcribed, or engrossed by you or whereto you shall have recourse or be in anywise privy until publication shall pass by rule or order of the said court, so help you God.

WILLIAM P. PARKER.

Sworn and subscribed to before me this 14th day of March, A. D. 1885.

CHARLES W. PLEASANTS.
JOS. H. MAHAN.

Instructions for the Commissioners.

Upon the receipt of this commission one of the commissioners will read it. The acting commissioners and the clerk will take and subscribe the oaths attached to the commission. The commissioners may be sworn one by the other and the clerk by one of them; then they proceed to take and the clerk to engross the depositions of the witnesses, to which depositions there will be a caption stating the case and cause of action in the following form:

In the Fifth Circuit Court of the United States for the Southern District of Georgia, Western Division.

A B
vs. } Case —.
C D.

Examinations and depositions of witnesses produced, sworn, and examined by the undersigned commissioners, in virtue of the annexed commission, issuing out of the honorable the fifth circuit court of the United States for the southern district of Georgia, taken and reduced to writing in (the place where the commission is executed) on this — day of ——, 18—.

E F, aged — years, being duly —, answers and deposes as follows, to wit:

To the first direct interrogatory the witness, answering, saith.

And so on to each successive direct interrogatory.

Then follow the cross-interrogatories, if any.

The witness must subscribe his name at the foot of his deposition and in the margin of each sheet, if more than one, and the commissioners attest the same as sworn to and subscribed in their presence. The attestation of the commissioners must appear at the foot of the deposition of each witness, if more than one. The depositions must be attached to the commission. Each commissioner writes his name across a seal of the envelope and the package is directed to the clerk, as stated in the body of the commission. The title of the cause must appear on the outside of the envelope.

When a commission is returned by mail the postmaster receiving it from the commissioner must certify to the fact, and the postmaster delivering it to the court must certify to its reception by due course of mail. The usual abbreviation or initials of Christian names of the commissioners, witnesses, postmasters, etc., shall be sufficient. Rule 51. Adopted April term, 1873.

If the commission be returned by a messenger he must deliver it personally to the clerk and make the usual affidavit.

185 *Deposition of Ida Ralston.*

In the Circuit Court of the United States for the Southern District of Georgia, Western Division. In Equity.

IDA RALSTON, Compl't,
against
GEORGE B. TURPIN, as Trustee, *et al.*

Examination and depositions of witnesses produced, sworn, and examined by the undersigned commissioners, in virtue of the annexed commission issuing out of the honorable the fifth circuit court of the United States for the southern district of Georgia, taken and reduced to writing at 237 Broadway, in the city, county, and State of New York, on this 14th day of March, 1885.

IDA RALSTON, complainant, aged — years, being duly sworn, answers and deposes as follows, to wit:

To the 1st direct interrogatory witness, answering, saith: I resided in 1880 — 269 West 38th St., New York, and 125 Fifth avenue in middle of January, until April, when I went to Stamford, Connecticut, until April, 1881. During 1883 I was at the Bristol, "W" St., N. Y., and went from there to Montclair, New Jersey, where I kept house. I was married to Mr. Ralston at the house in 38th St. by Rev. Geo. H. Wroughton, Jan'y 3d, 1880. Mr. Ralston died in Montclair July 4th, 1883, and was buried there, but last March was reinterred in Macon, Ga. We lived together as husband and
186 wife all the time, except when I was under treatment at the hospital.

To the 2d direct interrogatory witness, answering, saith: We resided latter part of August, 1880, at Stamford, Connecticut. About August friends of Jim Ralston from Macon, Ga., called, J. Munroe Ogden first and then Mr. Turpin. Ogden came and I opened the door and let him in, and he asked me if Jas. Ralston and I were married, and I said yes. I told him not to say anything to Mr. Turpin about it, as Mr. Ralston wished to tell him himself. He said so many people came to him in Macon to ask about the marriage—that that was all he wanted to know. During August Turpin came there. Mr. Ralston and I were dining, and found Mr. Turpin sitting on the porch on our return. As we sat at table Mr. Ralston introduced Mr. Turpin, saying: "This is my wife, Mr. Turpin; we were married last Jan'y." Mr. Turpin told him: "Jimmy, you promised not to marry without my consent, but as you've done it I hope you'll stick to it." Next morning he called us into the library and told us he wished to talk with us. He drew out a paper and commenced: "Jimmy, you remember when your mother made her will she said she was going to leave something for my children, and you told her to never mind, as you would see that they got something by your will. Now, I've had that part of the property which you mentioned in a will some time ago drawn up in a deed for the benefit of my children, you to have the use of it dur-
187 ing your life, and to go to them after your death. Of course, this will not in any way interfere with your wife's share of the property, as she will have sufficient income to maintain her handsomely in case of your death. You may possibly outlive me, and I hope you will, but it is always best to have these things attended to." After reading the paper over Turpin said: "Jimmy, the Third-street property is of more value than the Cherry-St. property on account of all the large buildings going up on that street, and in course of a few years will be the principal business St. in Macon."

To the 3d direct interrogatory witness, answering, saith: The paper I refer to in my answer to the 2d interrogatory was the deed of Ralston Hall property in Macon, Ga., and was, as I understood, drawn in Macon, and is the deed attached to the bill in this suit. Neither myself nor my husband fully understood the contents of it or the value of the property described therein. I can't answer whether that property was more valuable than any other there. Mr. Turpin remained with us until the papers were signed. We could not find a commissioner in Stamford or Bridgeport before whom to execute the

paper. Then Turpin brought us to New York to Mr. Nettleton, in Broadway. I was under the eye of either Mr. Ogden or Mr. Turpin all the time till the said papers were signed. The said deed was signed by Mr. Ralston and myself and acknowledged before
188 Mr. Nettleton. I was married about 7 months before that. I had no knowledge of Mr. Ralston's property, nor did Mr. Turpin say anything about the value of the property, except as above stated.

To the 4th direct interrogatory witness, answering, saith: As far as I know, Mr. Ralston gave no attention to his business or domestic affairs. I did it all. We boarded and kept house, too, after marriage. The first month or so after going to Stamford he seemed to take an interest in the garden, but after that took no interest. I even had to ask the landlord if the rent was paid, and had to see whether the bills were paid, even if I gave him the money to pay them, he run so much in debt and spent so much for liquor. Most of the checks were in my name. The first three months after marriage he kept sober, but after that he drank dreadfully. He took — pledge the latter part of Jan'y & kept it to May; after that he was hardly ever sober. He was terrible at times. I had to tie him down. He would throw lamps and threaten to burn the house down. He imagined people were under the bed, and he would shout at imaginary people outside, and I had to hide his guns and pistols. I had to take the loads out and give them back to him to quiet*en* him. He would fill them with nails, tacks, &c. His physical condition was very weak, and when he did not have liquor he was hardly able to get out of bed. He craved the liquor.
189 He never knew, up to within a few days before his death, from the time of this deed, of the value of his property, only what Mr. Turpin told him. He was very extravagant with money. He bought me a turnout for nearly $4,000 and sold it for $42, I think. He was easily influenced by those he regarded as his friends, and would give them anything.

Examination adjourned to March 21st, 1885, at 11 a. m., and then resumed.

Witness resumed: Mr. Ralston used to fall down in the streets of Stamford, & other people had to drag him along. He was utterly helpless; his mind was weakened from the use of liquor, and he was weak physically. I judge his weakness mentally from his actions in business. He was physically helpless and weak. A child could knock him down. He was easily influenced by those he regarded as his friends and especially by any person or persons whom he considered had placed him under obligations.

To the 5th direct interrogatory witness, answering, saith: After our marriage we always lived unpleasantly when he was under the influence of liquor, but when sober we got on well together. He would call for liquor, and I would not give it to him; then he would make a row, and I was forced to hide his clothes and keep him in his night-gown. I treated him just like I would a child.

He treated me kindly and was good to me so far as providing a good home for me. He would come up behind me, strike
190 me, and run. He was very cunning. The trouble between us was generally about liquor. I would try to keep him in — house and sober. I had to keep up 7 or 8 nights at a time with him. I sometimes got provoked with him. As a general rule I was kind. He was kind when sober or wanted liquor. I cared for him when he was sick from liquor at home and also at Elizabeth Hospital, in New York, and whilst in hospital the Sisters also cared for him. I nursed him alone from latter part of Dec. to first or second week in June, when, I being broken down, we got a nurse for him to help me.

To the 6th direct interrogatory witness, answering, saith: At the time *of* the second deed was made he was drinking all the time, and his mind and body were weakened, and from that time and previous up to three or four months before his death, when he was dying from consumption and could only take a spoonful of liquor at a time, both mind and body were impaired from his dissipation, and to an extent it made him extremely weak and childish. I myself undertook to stop his use of liquor in Stamford, Conn. I told the State attorney general that I wanted to prevent my husband's drinking, and he went to all the liquor places there and forbid them selling Mr. Ralston any liquor under the penalty of the law. The attorney general brought a paper to my house and told Mr. Ralston that I would separate from him unless he stopped drinking. He told the attorney gen'l that he would deed all he had to me, but the attorney general told him he was not competent to make such a deed. This
191 was after the first deed, but previous to the second. I annex paper hereto, marked Exhibit "A," and agreement, marked "B," which Mr. Ralston signed. He kept that pledge not quite two weeks. In 1880, 1881, and 1882 Turpin had great influence over Mr. Ralston. Turpin always talked to him as if he was one of his children; he would say, "Jimmy, you can't do this and can't do that;" that he, Turpin, had kept all his money for him and would have to support him anyhow. He wanted to make him believe that only for him he would be without means—not have a dollar—and, as I said before, he would do as Turpin told him in everything except so far as liquor was concerned. Turpin always appeared deeply anxious about Mr. Ralston's welfare when Ralston was present. He came to my house in the Windermere, New York; Mr. Ralston took him into his room and told him I said he was not his friend and had robbed us out of all our property, and he cried before Turpin, being afraid he would lose Turpin's friendship. Turpin said he did not care a damn what I said.

To the 7th direct interrogatory witness, answering, saith: As to the 2d deed, I was told by Mr. Ralston that as I had signed the first I must sign the second. He told me that if I did not sign it I would not be his wife any longer than five hours. Turpin, after these deeds were signed, was not as agreeable as before that with Mr. Ralston. When I wanted Mr. Ralston to go South for his health Turpin objected and said he had had enough trouble with him. They

would not give me a chance to see a lawyer; they were with
192 me all the time until the 1st deed was signed. I believed Turpin then to be my friend & Mr. Ralston's. He so expressed himself, and in writing me addressed me as his friend. I had confidence in him because my husband had so much. I know of no facts that induced Ralston to sign the deeds except that he believed he was under obligations to sign them, and probably never gave the matter another thought.

To the 8th direct interrogatory the witness, answering, saith: Mr. Ralston was much grieved at Turpin's neglect of him in his last sickness. I wrote to Turpin to come on and settle up his business, but he replied there was no business to settle and he did not come. Mr. Ralston cried at Turpin's neglect. Dr. Wylie telegraphed that Mr. Ralston was dead to Turpin, and he dispatched back to ship the body by express and when he should meet it. I telegraphed back that Mr. Ralston's remains should remain at Montclair until cold weather. Neither I nor Mr. Ralston were ever married before nor had we any children.

To the first cross-interrogatory witness, answering, saith: When I first came to Macon, Georgia, I stopped at the Ralston mansion. Except as I have already answered and may hereafter answer *answer* said interrogatory I decline to answer upon the ground that the answer would tend to bring infamy and public contempt upon
193 myself. I am not aware that Turpin endeavored to withdraw Jas. Ralston from under my influence. He never used his influence to get me from Macon or to prevent Ralston from associating with me. I came North first and Ralston came after me and we were married at the North. The marriage was not mentioned to Turpin until he came North. We were married in January and he was told the following August, when he came North.

To the 2d cross-interrogatory witness, answering, saith: I decline to answer upon the ground that the answer would tend to bring infamy and public contempt upon myself.

To the 3d cross-interrogatory witness, answering, saith: Except that I never drank with him to get drunk, I decline to answer upon the reasons heretofore given in my answer to the 2d cross-interrogatory.

To the 4th cross-interrogatory witness, answering, saith: I refuse to answer upon the ground stated, except to say that Turpin never used any influence to keep Mr. Ralston away from me, to my knowledge.

To the 5th cross-interrogatory witness, answering, saith: Mr. Turpin did not succeed in removing Mr. Ralston from my influence, but Mr. Turpin had a greater influence over him than I had, so far as business was concerned.

194 To the 6th cross-interrogatory witness, answering, saith: I refuse to answer upon the grounds stated, except to say that to my recollection there were no quarrels that led to blows or bloodshed.

To the 7th cross-interrogatory witness, answering, saith: I decline to answer upon the grounds stated, except that I do not know of any efforts by Turpin to prevent Mr. Ralston from associating with me.

To the 8th cross-interrogatory witness, answering, saith: I cannot say at how many places Mr. Ralston visited or followed me before my marriage.

To the 9th cross-interrogatory witness, answering, saith: I really cannot answer that question, except to say that I used no influence to make him stick to me. I remember no serious quarrels previous to our marriage.

To the 10th cross-interrogatory witness, answering, saith: He had intended to marry me as far back as 1876, and it had been delayed, and that was the reason I permitted him to marry me, and that was the reason I married him.

To the 11th cross-interrogatory witness, answering, saith: I know nothing about whether Jas. Ralston ever made a will giving the Ralston Hall property to Turpin, as trustee for his children. As I said before, I don't know of his making such a will, but I believe he had mind enough to marry me at the time he did so. He did it freely and at his own wish.

195 To the 12th cross-interrogatory witness, answering, saith: He executed some paper conveying one store to me and his life estate in another upon my taking up nine notes of $1,000 each. This was done, I think, about February, 1882, after the first Turpin deed, and whether it was after the second I cannot say; cannot remember.

To the 13th cross-interrogatory witness, answering, saith: The only answer I can make to this is that one was a deed upon considerations and another was a deed of gift.

To the 14th cross-interrogatory witness, answering, saith: After March, 1882, Ralston began to drink more and grew worse in bad treatment to me. I don't know that he drank more after that, but his actions were worse. He struck me, but not from the front, but from behind, and I may have written the letter stated in this cross-interrogatory.

To the 15th cross-interrogatory witness, answering, saith: He bought me a turnout; I did not want him to sell it when he wanted to sell it, as he was not in condition to sell. The receipt was in my name. At the proper time I gave him the power to sell, and he did not threaten to employ a lawyer to sue me—not to my knowledge.

To the 16th cross-interrogatory witness, answering, saith: No; not that I can remember.

To the 17th cross-interrogatory witness, answering, saith:

196 We were at the Brighton, New York, and I was sick, and because of Mr. Ralston's conduct the hotel-keeper said we must leave; then I went to the hospital and he went to the Belvedere. I did not take his things, and he did threaten to call the sheriff, as I was told. The only things he had there were two blankets, and I was not in condition to go down into the cellar for them.

To the 18th cross-interrogatory witness, answering, saith: After Jas. Ralston deeded me the property in Macon I did not separate from him at all, to my knowledge, except to go to the hospital when sick. Before and after he deeded the property to me I threatened to get a divorce from him, but I never endeavored to get one or did anything toward it.

To the 19th cross-interrogatory witness, answering, saith: As I was never away from him except while I was at the hospital, he did not threaten to withdraw all support from me.

To the 20th cross-interrogatory witness, answering, saith: I did telegraph to Mr. Turpin not to send any money to Jas. Ralston. I either wrote or telegraphed. I do not know of Mr. Ralston getting Mr. Grayhill to telegraph Mr. Turpin not to send any money to me.

To the 21st cross-interrogatory witness, answering, saith: We quarrelled some after the deeds were executed, and always on the subject of liquor; yes.

197 To the 22d cross-interrogatory witness, answering, saith: I did not know that Turpin tried to break off my connection with Jas. Ralston before my marriage, and after my marriage he requested me to stick to him and not to let him go South, and also requested me to do all I could to stop his drinking. I did, after the deeds were made, write to Mr. Ralston and sign my letters as his friend, and I did ask his advice. It was after the deeds were signed, but I did not know all about Ralston's property; in fact, I knew nothing about it. This was after he asked me to do what I could to prevent his drinking.

IDA RALSTON.

We certify that the foregoing examination of the witness, Ida Ralston, was taken in our presence separate and apart from any other witness in the cause, and was subscribed and sworn to by her in our presence.

CHARLES W. PLEASANTS,
JOS. M. MOHUN,
Commissioners.

EXHIBIT "A."

I, James A. Ralston, of Stamford, Fairfield county, Connecticut, fully realizing the imminent danger I am in from the strong appetite I have formed for intoxicating liquors, do hereby swear that I will not taste one drop of any kind of intoxicating liquors, including all kinds, ale, beer, lager, and cider, for the space of two years, so help me God in this my solemn oath.

Dated Stamford, April 8th, 1881.

198 JAS. A. RALSTON. [SEAL.]

STATE OF CONNECTICUT, } ss:
County of Fairfield, }

STAMFORD, *April 8th*, 1881.

Personally appeared James A. Ralston, signer and sealer of the foregoing oath, and swore to the same before the undersigned officer, who is duly and legally qualified to administer oaths according to the laws of the State of Connecticut.

JAMES H. OLMSTEAD,
Commissioner of the Superior Court
in and for Fairfield County.

EXHIBIT "B."

This agreement, made and entered into this 27th day of November, 1882 (at 3 p. m.), witnesseth: That I, James A. Ralston, of the city of New York, for and in consideration of the sum of one dollar to me in hand paid by Ida Ralston, of said city, receipt whereof is hereby duly acknowledged, have promised and agreed and do by these presents most solemnly promise and agree to and with the said Ida Ralston, for the period of twelve months from the date hereof, to abstain from all alcoholic or intoxicating beverages or drinks of any and every kind whatsoever, and do hereby bind myself in the event of the violation of my promise or agreement as aforesaid to consent to a bill of separation from the said Ida Ralston without any objection or contest on my part.

In witness whereof I have hereunto set my hand and seal the day and year first above written.

JAS. A. RALSTON. [SEAL.]

199 Sealed and delivered in presence of—
JAS. EDW'D GRAYHILL.
LEWIS HERSBERG.

Endorsed: Jas. A. Ralston to Ida Ralston. November 23d, 1882. Promise as to liquor.

Endorsements on Envelope Containing Above Deposition.

On the face.

U. S. Circuit Court, So. Dist. of Georgia.

IDA C. RALSTON, Complainant,
vs.
GEORGE B. TURPIN, as Trustee for His Children, *et al.*, Def'ts. } No. —.

Filed the 7th day of August, A. D. 1883.

Deposition of Ida Ralston, witness on the part of complainant. To the clerk of the United States circuit court, Macon, Georgia.

On the back.

I, Charles W. Pleasants, one of the commissioners on the within commission, do hereby certify that I have this day deposited in the post office at New York city the inclosed commission and depositions for transmission by mail to Macon, Ga., this 28th day of March, 1885.

CHARLES W. PLEASANTS,
Commissioner.

POST OFFICE, NEW YORK CITY.

Received this package from Chas. W. Pleasants, to be
200 transmitted by mail to Macon, Ga., this 28th day of March, 1885.

J. GAYLER,
Deputy Postmaster.

POST OFFICE, MACON, GA.

Received this package by due course of mail this 19th day of March, 1885.

W. W. BROWN, *P. M.*

Received by mail and filed this 4th day of April, 1885.

L. M. ERWIN,
Deputy Clerk.

Across the seals on back: C. W. Pleasants, Jos. H. Mohun; C. W. Pleasants, Jos. H. Mohun; C. W. Pleasants, Jos. H. Mohun.

Order to open.

Rec'd this package of int'ys in open court from postmaster, Macon, Ga., with leave to open, May 6th, 1885.

EMORY SPEER,
U. S. Judge.

Commission to examine John A. Brinknall, John Sheeran, Horace E. Jones, Margaret O'Brien (otherwise known as "Sister Margaret"), Dr. W. Gill Wylie, and Dr. William R. Pryor, witnesses on the part of complainant.

Interrogatories.

201 In the Fifth Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON
vs.
GEORGE B. TURPIN, as Trustee for His Children, *et al.*

Interrogatories to be propounded to John A. Brinknall, John Sheeran, Margaret O'Brien (otherwise known as "Sister Margaret"), Horace E. Jones, Dr. W. Gill Wylie, and Dr. William R. Pryor, material witnesses for the complainant in the above-stated cause, and who reside out of the State of Georgia and in the city, county, and State of New York.

Interrogatory 1st. Where do you reside and what is your profession or calling?

Int'y 2d. Please state whether or not you were acquainted with James A. Ralston and Ida Ralston, his wife. If yea, when, where, and how long? State where they lived at the time you knew them, and state whether you were in the habit of seeing them both or either of them frequently or not.

Int'y 3d. What were the habits, if any you knew, as to said James A. Ralston's use of intoxicating liquors; as to his use of or spending money? Was he prudent and careful of his money or property or was he extravagant with it? Did he or not have a proper conception of the value of property? Was he or not easily influenced by those whom he regarded as his friends and especially by those
202 who may have placed him, as he supposed or was led to believe, under personal obligations?

Int'y 4th. What was the condition of the mind of the said James A. Ralston in the years 1880, 1881, and 1882? Had it been impaired in any way or not by any cause or from any habit you were aware of? If so, to what extent? Was he generally sober during those years or otherwise? To what extent did he use liquor, if at all? What was the effect of such use, if any, on him mentally and physically?

Int'y 5th. If either of you knew George B. Turpin, state if you know anything of the relations existing between said James A. Ralston and him for several years before the death of the said James A., and specially in the years 1880, 1881, and 1882? What influence, if any, did said Turpin have over the said James A. Ralston? Did said Turpin have much or little influence over him? What facts, if any, do you know showing his influence over him? State fully.

Int'y 6th. State any and all facts and circumstances you may know as to what business said James A. Ralston engaged in, if any; whether or not he was capable of attending to any, and, if not, from what cause, during the years 1880, 1881, and 1882, or either, or which one if you only know as to one, and whether or not from any cause, and what, he was in a condition, and what condition, which made him subject to imposition by others and especially by persons he knew well and had confidence in? Was he capable of
203 managing his property, or of transacting business as persons ordinarily do, or of placing a proper estimate on property or of prudently disposing of it?

Int'y 7th (to William R. Pryor and W. Gill Wylie). If you have answered that you are practitioners of medicine, please state what school of medicine, and how long you have practiced; if connected with any medical institution, what and in what way.

Int'y 8th (to all the witnesses). Do you know or can you set forth any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

LANIER & ANDERSON,
Complainant's Solicitors.

(Endorsed:) Ida Ralston *vs.* George B. Turpin, trustee, *et al.* Interrogatories. Filed in office Jan'y 8th, 1885. L. M. Erwin, deputy clerk. Lanier & Anderson.

Acknowledgement.

Due and legal service of the within int'*ys* acknowledged.
204 Copy and further service waived. Let commission issue.
Jan'y 5, '85. We nominate Mr. J. H. Mohun, No. 13 Chambers St., and Walter Hodgkins, No. 300 Broadway, as commissioners to take these int'*ys*.

BACON & RUTHERFORD,
Sol's for Geo. B. Turpin, Trustee.

Cross-Interrogatories.

We object to the 3d, 4th, 5th, & 6th int'*ys* as neither pertinent nor relevant to issues in this case, and that the witnesses are not competent to give their opinions as to the mental condition of James A. Ralston, neither being experts as to mental soundness. We object to int'y 8th as not disclosing the nature of the testimony elicited.

1st X. If you say that James Ralston was easily influenced by those he regarded as his friends, state who did he regard as his friends. Give their names, and how do you know he regarded them as his friends. Who did you ever see influence him? Give the name of the person, time, and place. State how he was influenced; what was he influenced to do; what was done, and what was said to influence him. Did Ralston regard either of you as his friends? Did you ever influence him to do anything? If so, state what. Did you influence him to do a proper thing or an improper thing?

2d X. If you say Ralston was led to believe he was under personal obligations to any one, state who they were and what were the obligations he thought he was under, and how do you know he
205 thought he was under obligations to such persons. State what persons of this kind ever influenced him. Give their names and the time and place he was influenced and what was he influenced to do; what was said and done to influence him.

3d X. Did you know James Ralston while he lived in Macon? Is it not true Ralston lived in Stamford, Conn., during the years 1880 & 1881? Where did you live in those years? If you say that Ralston lived in Stamford, Conn., in 1880 and 1881 and that you lived in New York city, how can you say whether he was generally sober or not during that time? How often did you visit Stamford, Conn., during those years?

4th X. Did you ever know Geo. B. Turpin to try to influence James Ralston to do anything except to try and keep him from drinking too much? Did not Turpin ask you to try and keep Ralston from drinking too much? Did either you or Turpin succeed in stopping Ralston from drinking?

5th X. If you say that Turpin did not have influence enough over Ralston to stop him from drinking, state what other influence, within

your own knowledge, did Turpin exert over him. State what was it Turpin influenced him to do or not to do. When was it? Where was it? Who was present? What did Turpin say or do and what did Ralston say or do?

6th X. Is it not true that Ralston, while you knew him,
206 was not engaged in any business? Did he not live on his money without doing any kind of work?

7th X. If you say Ralston was subject to imposition by persons he knew well and had confidence in, state who those persons were, give their names, and state how and in what way they imposed on Ralston. Did either of you impose on him or practice any imposition of any kind upon him?

BACON & RUTHERFORD,
Sol's for Geo. B. Turpin, Trustee.

Let each witness be examined separate and apart from each other and let the commissioners so certify.

BACON & RUTHERFORD,
Sol's for Geo. B. Turpin, Trustee.

206⅓ *Commission to Examine Witnesses.*

UNITED STATES OF AMERICA,
Western Division, Southern District of Georgia:

In the Circuit Court of the United States for the Western Division, Southern District of Georgia.

To Charles W. Pleasants and Joseph H. Mahan, Esquires, Greeting:

Know ye that, in confidence of your prudence and fidelity, you are hereby appointed and by these presents are vested (any two or more of you) with full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be exhibited to you in a certain cause pending and to be tried in the said court, wherein Ida Ralston is complainant and George B. Turpin, as trustee for his children (as named in the pleadings, being a bill in equity in said court against said trustee *et al.*), —, as well on the part of the said defendants as on the part of the said complainant or either of them.

And it is required of you (or any two or more of you) that on certain days and at certain places, by you to be appointed for that purpose, you do cause the said John R. Brintnall, John Sheeran, Margaret O'Brien (otherwise known as "Sister Margaret"), Horace E. Jones, Dr. W. Gill Wylie, and Dr. William R. Pryor, witnesses on the part of the complainant, to come before you, and then and there examine them upon the said interrogatories on their corporal oaths first taken before you (or any two or more of you) on the Holy Evangelists, and that you do take such their examinations and reduce them into writing, and when you shall have so taken them you are to send the same to the clerk of the fifth circuit court of the United States for the western division of the southern district of Georgia, at Macon, Georgia, closed up and under your seals (or the

seals of any two of you), distinctly and plainly set, together with the said interrogatories and this writ; and, further, that you and each of you, before you act in or be present at the swearing or examining any witness or witnesses, do severally take the oath first specified in the schedule hereunto annexed, and full power is given you or either of you, jointly or severally, to administer such oath to the rest or any other of you upon the Holy Evangelists; and it is further required of you that all and every of the clerk or clerks employed in taking, writing, transcribing, or engrossing the deposition or depositions of witnesses to be examined by virtue of these presents shall, before he or they be permitted to act as clerk or clerks as aforesaid or be present at such an examination, severally take the oath last specified in the said schedule annexed; and full power and authority is also given you or any of you, jointly or separately, to administer such oath to such clerk or clerks upon the Holy Evangelists.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of Macon, this 8th day of January, in the year of our Lord one thousand eight hundred and eighty-five, and the one hundred and ninth year of American Independence.

[L. S. of the Court.]

L. M. ERWIN,
Deputy Clerk.

Observe carefully the instructions on the next page.

$206\frac{2}{3}$ SCHEDULE.

The Commissioners' Oath.

You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the above commission upon the interrogatories now produced and left with you; and you shall not publish, disclose, or make known to any person or persons whatsoever, except to the clerk or clerks by you employed and sworn to secrecy in the execution of this commission, the contents of all or any of the depositions of the witnesses or any of them to be taken by you and the other commissioners in the said commission named, or any of them, by virtue of the said commission until publication shall pass by rule or order of said court, so help you God.

CHARLES W. PLEASANTS.
JOS. H. MAHAN.

Subscribed and sworn to before me this 14th day of March, A. D. 1885.

JOS. H. MAHAN.
CHARLES W. PLEASANTS.

The Clerk's Oath.

You shall, truly, faithfully, and without partiality to any or either of the parties in this cause, take and write down, transcribe and engross, the depositions of all and every witness and witnesses produced before and examined by the commissioners or any of them named in the commission hereunto annexed, so far forth as you are directed and employed by the said commissioners or any of them to take, write down, or engross the said depositions or any of them, and you shall not publish, disclose, or make known to any person or persons whatsoever the contents of all or any of the depositions of the witnesses or any of them to be taken, written down, transcribed, or engrossed by you or whereto you shall have recourse or be in anywise privy until publication shall pass by rule or order of the said court, so help you God.

WILLIAM P. PARKER.

Subscribed and sworn to before me this 14th day of March, A. D. 1885.

CHARLES W. PLEASANTS.
JOS. H. MAHAN.

Instructions for the Commissioners.

Upon the receipt of the commission one of the commissioners will read it. The acting commissioners and the clerk will take and subscribe the oaths attached to the commission. The commissioners may be sworn one by the other and the clerk by one of them. Then they proceed to take and the clerk to engross the depositions of the witnesses; to which depositions there will be a caption stating the case and cause of the action in the following form:

In the Circuit Court of the United States for the Southern District of Georgia, Western Division.

A B
vs. } Case —.
C D.

Examinations and depositions of witnesses produced, sworn, and examined by the undersigned commissioners in virtue of the annexed commission, issuing out of the honorable the circuit court of the United States for the southern district of Georgia, taken and reduced to writing in (the place where the commission is executed) on this — day of ——, 18—.

E F, aged — years, being duly —, answers and deposes as follows, to wit:

To the first direct interrogatory the witness, answering, saith.
And so on to each successive interrogatory.
Then follow the cross-interrogatories, if any.

The witness must subscribe his name at the foot of his deposition and in the margin of each sheet, if more than one, and the commissioners attest the same as sworn to and subscribed in their presence. The attestation of the commissioners must appear at the foot of the deposition of each witness, if more than one. The depositions must be attached to the commission. Each commissioner writes his name across a seal of the envelope, and the package is directed to the clerk, as stated in the body of the commission. The title of the cause must appear on the outside of the envelope.

When a commission is returned by mail the postmaster receiving it from the commissioner must certify to the fact, and the postmaster delivering it to the court must certify to its reception by due course of mail. The usual abbreviations or initials of Christian names of the commissioners, witnesses, postmasters, etc., shall be sufficient. Rule 51; adopted April term, 1873.

If the commission be returned by a messenger he must deliver it personally to the clerk and make the usual affidavit.

207 *Depositions.*

In the Circuit Court of the United States for the Southern District of Georgia, Western Division. In Equity.

IDA RALSTON, Complainant,
against
GEORGE B. TURPIN, as Trustee, *et al.*

Examinations and depositions of witnesses produced, sworn and examined by the undersigned commissioners, in virtue of the annexed commission issuing out of the honorable the circuit court of the United States for the southern district of Georgia, taken and reduced to writing at 237 Broadway, in the city, county, and State of New York, on this 14th day of March, 1885, and the dates at the head of each deposition, respectively.

JOHN O. BRINTNALL, aged 47 years, being duly sworn, answers and deposes as follows, to wit:

To the first direct interrogatory the witness, answering, saith: I live at 122 East 36th street, N. Y. city, in the 21 ward. I am in the coal business.

To the 2d direct interrogatory the witness, answering, saith: I was acquainted with James A. Ralston and Ida Ralston, his wife. I met them at Stamford, Connecticut, in the summer of 1880. I boarded in one house and he lived in the adjoining house. I saw him
208 most every day passing down to the yard, and I saw her very often. I also saw him at the Windemere Flat, in New York, after he left Stamford.

To the 3d direct interrogatory the witness, answering, saith: I saw him drunk a number of times—hardly ever sober. When his wife would go away to New York or elsewhere he would go away to Shippman Point and get very drunk. While at the Windemere I

went there and he came to the door in his night-gown. I walked in his parlor and he was drunk; he was generally under a heavy pressure from drink. That night he went into a bar-room and treated the crowd several times over, and told the barkeeper always to allow the witness to drink with any of his friends at his, Ralston's, expense, and if he did not he would never come there again. He was not prudent or careful with his money, but was extravagant with it. He had not a prudent or proper conception of the value of property. He was easily influenced by those he regarded as his friends, and especially by those who may have placed him, as he supposed or was led to believe, under personal obligations.

To the 4th direct interrogatory the witness, answering, saith: In the years 1880 and 1881 his mind was thick, I think. I know it had been impaired by the use of liquor. When his wife visited us he did not come with her, and when the people from the boarding-house visited his house he was out of sight. He was
209 not generally sober during the summer of 1880, when I saw him. When I saw him in 1881, in New York, he was generally drunk; his mind was generally thick or clouded.

To the fifth direct interrogatory the witness, answering, saith: I have met George B. Turpin; was introduced to him one day. I knew he was Ralston's agent by Ralston telling me so. I knew of his going to the Sturtevant House, New York, to meet Turpin, saying he wanted to get some money from Turpin, his agent. He got $50.00 from Turpin. This was about the summer or fall of 1881. I only saw Turpin upon this occasion and did not observe any particular influence over Ralston except his trying to stop his drinking.

To the 6th direct interrogatory the witness, answering, saith: Mr. Ralston was engaged in no business, so far as I know. I don't think he was capable of any because of his drinking habits, for when he was sober he was getting over his drunk. This was in the years 1880 and 1881. During that time if a person made friends with him he might impose on him while away from his wife. When at Stamford he would spend a great deal of money and get no return for it. He was not capable of transacting his business as persons ordinarily do, according to my idea.

To the 8th direct interrogatory the witness, answering, saith: No.

210 To the 1st cross-interrogatory the witness, answering, saith: He told me that Turpin was his agent, and he got money from him. I know this only from what he said to me. I saw Mr. Turpin influence him. It was at the Sturtevant House in 1881. He was influenced not to drink at the bar at that time. Turpin told the barkeeper to make the drink weak. Ralston regarded me only as a visiting acquaintance. I was not a friend; only a visitor. I never influenced him to do either a proper or improper thing.

To the 2d cross-interrogatory the witness, answering, saith: I don't know that Ralston was led to believe that he was under personal obligations to anybody, or thought so. I have already answered the rest of the second cross-interrogatory.

To the 3d cross-interrogatory the witness, answering, saith: I did not know James Ralston while living in Macon. Ralston lived in Stamford, Connecticut, a part of the year 1881. During a part of the year 1880 I lived in Stamford, while Mr. Ralston boarded there, and I a portion of the time lived in New York. When I saw him at Stamford, Connecticut, is the time I am speaking. I was off and on at Stamford all the time.

To the 4th cross-interrogatory the witness, answering, saith:
211 I never knew George B. Turpin to try and influence Ralston except to keep him from drinking. Turpin never asked me to try and keep Ralston from drinking. I said nothing to Ralston about the matter.

To the 5th cross-interrogatory the witness, answering, saith: I have already said all I know in reference to the influence that Mr. Turpin had over Mr. Ralston.

To the 6th cross-interrogatory the witness, answering, saith: Ralston was not engaged in any business while I knew him, and I suppose he lived on his money.

To the 7th cross-interrogatory the witness, answering, saith: To this I answer I knew no person who imposed on Ralston, and I did not myself.

JOHN O. BRINTNALL.

We certify that the foregoing examination of the witness, John O. Brintnall, was taken in our presence separate and apart from any other witness in the cause and was subscribed and sworn to by him in our presence.

CHARLES W. PLEASANTS,
JOS. H. MAHAN,
Commissioners.

212 MARGARET O'BRIEN (otherwise "Sister Margaret"), aged 40, being duly sworn, answers and deposes as follows (March 14th, 1885):

To the 1st direct interrogatory the witness, answering, saith: I reside at St. Elizabeth hospital, in 31st St., New York, and am a Sister of the 3d Order of St. Francis.

To the 2d direct interrogatory witness, answering, saith: I was acquainted with Mr. and Mrs. Jas. Ralston for 5 years previous to his death. I first became ac*k*quainted with Mrs. James Ralston about 5 years ago by her coming to the hospital. I knew Mr. Ralston about the same time. I knew them either in Stamford or New York. I continued acquaintance up to his death. I saw him in Montclair two weeks before he died. I saw them frequently; they were both sick in the hospital on different occasions. He resided at Montclair at his death.

To the 3d direct interrogatory the witness, answering, saith: I would call Mr. Ralston an habitual drunkard. He spent his money very freely. He was not prudent or careful, but was very extravagant. I can't testify whether he had a proper conception of the value of property. I don't think he was very easily influenced.

To the 4th direct interrogatory the witness, answering,
213 saith: In 1880, 1881, and 1882 his mind appeared to be all right; it had not been impaired, so far as I know of. He was very seldom sober during that time. In the hospital he was allowed from 3 to 5 milk punches per day and he would try to steal out for more; the effect was to make him stupid and helpless after going out, and had to be treated like a child.

To the 5th direct interrogatory the witness, answering, saith: I knew Geo. B. Turpin. I knew nothing of the relations between Turpin and Ralston during 1880 and 1881 and of no facts showing his influence over Ralston.

To the 6th direct interrogatory the witness, answering, saith: I know of no business Ralston was engaged in. He was not capable of business, because of his drunkenness, in 1880, 1881, and 1882. I can't testify as to any way he was subject to imposition by others. I do not know whether he was capable—I think he was not—of managing his property or properly disposing of it as persons ordinarily do.

To the 8th direct interrogatory witness, answering, saith: I cannot.

To the 1st cross-interrogatory the witness, answering, saith: I advised him not to drink.

214 To the 2d cross-interrogatory witness, answering, saith: I don't know of any.

To the 3d cross-interrogatory witness, answering, saith: I did not know Ralston in Macon, Ga. He did live in Stamford in 1881. I lived then in the hospital in New York. I saw him in New York during 1880 and 1881.

To the 4th cross-interrogatory the witness, answering, saith: I never knew anything about the influence of Turpin over Ralston. Ralston did not drink as much in the hospital as when he was out.

To the 5th cross-interrogatory the witness, answering, saith: I know nothing about those matters.

To the 6th cross-interrogatory the witness, answering, saith: I always understood that Ralston lived on his money and was not in any business.

To the 7th cross-interrogatory the witness, answering, saith: I did not impose upon him. I know nothing about any imposition upon him.

SISTER MARGARET O'BRIEN.

215 We certify that the foregoing examination of the witness, Margaret O'Brien, was taken in our presence separate and apart from any other witness in the cause and was subscribed and sworn to by her in our presence.

JOS. H. MAHAN,
CHARLES W. PLEASANTS,
Commissioners.

Dr. W. GILL WYLIE, being duly sworn, deposes as follows (March 21st, 1885):

To the first direct interrogatory the witness, answering, saith: I reside in New York city and am a physician by profession.

To the 2d direct interrogatory the witness, answering, saith: I was acquainted with Jas. A. Ralston and Ida, his vife, in New York city and for three or four years before his death, at 57th St. and 9th Ave., St. Elizabeth's hospital, at Eleventh St., and at Montclair, New Jersey, and saw him frequently at all these places.

To the 3d direct interrogatory the witness, answering, saith: He used intoxicating liquors almost habitually, excessively at
216 times. He was very reckless in spending money. I think he was very free in the use of his money I chiefly saw him when he was sick. The greater part of the time I should say he did not have a proper conception of the value of property. I think it was very marked that he was easily influenced by those he regarded as his friends, and especially those to whom he supposed he was under obligations, and I have heard him talk and give his reasons for being so influenced.

To the 4th direct interrogatory the witness, answering, saith: In 1880, 1881, and 1882, at times, his mind might have been clear, but when I first knew him, about 1880, his mind was greatly weakened by the use of liquors—very much impaired by liquors a good portion of the time; when I saw him he was generally under the influence of liquor, but I saw him when he needed a doctor. When he started to drink he drank until he broke down, and this weakened him both mentally and physically.

To the 5th direct interrogatory the witness, answering, saith: I did not know Mr. Turpin, but heard Ralston talking about him in 1880, 1881, and 1882, and I should say Turpin's influence over him was great. Ralston, in talking to me, seemed to think Tur-
217 pin was about perfect and had saved him from State's prison on more than one occasion by getting his family to stand by him.

To the 6th direct interrogatory witness, answering, saith: I did not know that Ralston was engaged in any business, and I should not think he was capable of doing so. This was true during 1880, 1881, and 1882, and especially in latter year, and grew out of his use of liquors. He was in a condition that made him liable to imposition by others, and this arose from his knowledge that he had to drink whenever he went out, and he was incapable of transacting business or managing his property or placing a proper estimate on property as persons ordinarily do.

To the 7th direct interrogatory witness, answering, saith: I have practiced medicine about fifteen years and am attending physician at Bellevue hospital and a professor at the New York *Polychinic.*

To the 8th direct interrogatory witness, answering, saith: Ralston had almost complete faith in Turpin and left him to do as he pleased. He only cared to have enough to live on, and he
218 thought Turpin would do right by Mrs. Ralston, and I think he overestimated the property not included in the deed.

From what Ralston said he seemed to believe that the property that Mrs. Ralston would get from what he left and his mother left would exceed that given to Mr. Turpin.

To the 1st cross-interrogatory witness, answering, saith: Ralston regarded Turpin as one of his old reliable friends, but Mrs. Ralston was the one he depended upon. I could influence him. The Sisters managed him almost like a child at the hospital. He looked upon me as a friend and I tried to influence him to stop drink, but he would only do so for awhile. I tried to influence him to do the proper thing. A servant named Joe had influence over him, and any one who was brought in contact with him seemed to influence him.

To the 2d cross-interrogatory witness, answering, saith: The person of the most importance to influence him was Turpin, because of his obligations to him, as I understood from Ralston. These obligations were as I have answered to my direct interrogatories.

219 To the 3d cross-interrogatory witness, answering, saith: I did not know Ralston while he lived in Macon. I understood he lived in Stamford, Conn., during part of years 1880 & 1881, and I resided in New York then. Mrs. Ralston was a patient of mine, and when she came to New York to see me she would sometimes bring him along, and when she was a patient at St. Elizabeth hospital he was often intoxicated, and when he was not intoxicated he showed the effects of liquor. I never visited at Stamford, Conn., in those years.

To the 4th cross-interrogatory witness, answering, saith: I never knew Turpin and I never succeeded in stopping Ralston from drinking.

To the 5th cross-interrogatory the witness, answering, saith: I know nothing of this except what I heard through Ralston, and as to that I have already testified.

To the 6th cross-interrogatory witness, answering, saith: I think he lived on his money and did no work.

To the 7th cross-interrogatory witness, answering, saith:

220 I never imposed on Ralston, but to the best of my knowledge Kelly Bros., being stable-keepers in New York, imposed on him. He bought, through them, a carriage and horses for a large sum, and after he had used them for a few months they sold the carriage and horses, both, for him and returned him about $42.00 in cash. The carriage cost about $1,500.00, and the horses were valuable. I think this was about 18 months or two years before his death.

W. GILL WYLIE.

We certify that the foregoing examination of the witness, W. Gill Wylie, was taken in our presence, separate and apart from any other witness in the cause, and was subscribed and sworn to by him in our presence.

CHARLES W. PLEASANTS,
JOS. H. MAHAN,
Commissioners.

Dr. WILLIAM R. PRYOR, being duly sworn, deposes and testifies as follows, March 25th, 1885:

To the 1st direct interrogatory witness, answering, saith: I reside at 38 East 33d street; am a physician.

221 To the 2d direct interrogatory witness, answering, saith: I was acquainted with Jas. A. Ralston and Ida, his wife. To the best of my recollection, I first saw him Dec. 19, 1882, at night, and last saw him June 6th, 1883. First saw him at Bristol Flats, 55 W. 11th St., N. York, and last at Montclair, N. Jersey, and intermediate those dates ten or eleven times, and saw Mrs. Ralston upon the same occasions.

To the 3d direct interrogatory witness, answering, saith: I have only seen him drink when liquor was administered by my order. When I went to see him Dec. 19th, 1882, he was suffering from acute alcoholism; he was some time getting better. He had acute pleurisy on Dec. 27th, 1882. He suffered from the effects of his drinking to the day of his death. The form of pleurisy he had was that which only accompanies the cases of those with vitiated constitutions and very hard drinkers. I know nothing of his habits in spending money, or whether he had a proper conception of the value of property. I should think he would be easily influenced by those he regarded as his friends, and especially by those he believed had put him under personal obligations.

To the 4th direct interrogatory witness, answering, saith:

222 In 1880, 1881, I did not know him. In 1882 he was very nervous, had insomnia, and was dreadfully prostrated physically. When I first saw him his mind had been impaired by the use of liquor to a considerable extent. Judging by the ordinary standard, he was not a rational man; he was suffering from the effects of alcohol all the time. To what extent he used liquor I do not know. The effect on him physically by use of liquor constantly gave him the form of pleurisy I speak of. He had chronic gastritis, and one of the chief difficulties was to get him to retain food at all. He was very weak in 1882 mentally; he was extremely nervous and excitable; would fly into a passion, and without reason, at the least trivial thing.

To the 5th direct interrogatory witness, answering, saith: I do not know and never knew Mr. Turpin, and nothing of his influence over Ralston.

To the 6th direct interrogatory witness, answering, saith: I do not know of his engaging in any business. He was not capable of attending to business when I knew him, from the effects of liquor on his mind and on his body, up to the time of his death, and he was in a condition that would subject him to imposition by others, especially those who had his confidence. I do not think he was capable of managing his property as persons ordinarily do, or of placing a proper estimate on his property, or of prudently disposing of it.

To the 7th direct interrogatory witness, answering, saith: I belong to the regular school of medicine, commonly known as the

223 "alopathic;" have practiced four years; am connected with

St. Elizabeth hospital as attending physician and assistant surgeon at the Polyclinic Institute.

To the 8th direct interrogatory witness, answering, saith: I think I have said all I know.

To the 1st cross-interrogatory witness, answering, saith: I can only answer so far as my relation with him is concerned. I was his physician and he treated me as his friend, and seemed to have confidence in me. I advised him to stop drinking to excess.

To the 2d cross-interrogatory witness, answering, saith: I cannot answer this, as I know nothing about the subject.

To the 3d cross-interrogatory witness, answering, saith: I did not know Ralston while he lived in Macon. I do not know whether he lived in Stamford, as I did not know him in 1880 and 1881.

To the 4th cross-interrogatory witness, answering, saith: I was not acquainted with Turpin, but I tried to influence Ralston to avoid excessive drinking.

To the 5th cross-interrogatory witness, answering, saith: I did not know Turpin, and cannot answer further.

To the 6th cross-interrogatory witness, answering, saith: I inferred from his mode of life that he was not engaged in any business, and that he lived upon his money.

224 To the 7th cross-interrogatory witness, answering, saith: I never imposed upon him, and do not know of any one doing so; but, judging from the analysis of his character I made, he was liable to be imposed on.

WM. RHYS PRYOR, *M. D.*

We certify that the foregoing examination of the witness, Wm. R. Pryor, was taken in our presence, separate and apart from any other witness in the cause, and was subscribed and sworn to by him in our presence.

CHARLES W. PLEASANTS,
JOS. H. MAHAN,
Commissioners.

HORACE E. JONES, being duly sworn, deposes and testifies as follows (March 27th, 1885):

To the 1st direct interrogatory witness, answering, saith: I reside in Eastville, Northampton Co., Eastern Shore of Va.; in lumber business. I resided in New York from 1865 to 1884.

To the 2d direct interrogatory witness, answering, saith: I am acquainted with Mr. Ralston and Mrs. Ralston. I first knew Mrs. Ralston about 4 years ago, or longer. I knew Mr. Ralston about 7 or 8 years ago, or longer. They resided, Mr. Ralston, in Georgia, when I first knew him, and when I first met Mr. and Mrs. Ralston they resided in New York. I saw them frequently in New York; they often came to my store when I was a merchant tailor.

225 To the 3d direct interrogatory witness, answering, saith: He drunk very freely. I should call him an excessive drinker. He was very liberal with his money when under the influence of liquor. He was rather extravagant with money, unless he was an

extremely rich man. I don't know whether I could answer whether he had a proper conception of the value of property. I think he could be easily influenced by those he regarded as his friends. He was a good-hearted and liberal man. He did not seem to know the value of money or property.

To the 4th direct interrogatory witness, answering, saith: In 1880, 1881, and 1882. I could not tell, though I often thought that his mind was impaired somewhat by the use of liquor. Once or twice since I knew him he kept sober for some time, but, except this, not more than half his time he was sober; the rest he was under the influence of liquor. He used liquor to a considerable extent. The effect of such excessive use of liquor was to change his mind; for instance, he would say things which he would not do when he was sober. He seemed quite well when he was sober, except the past year of his life, when he had severe spells of sickness.

To the 5th direct interrogatory witness, answering, saith: I knew Geo. B. Turpin. I knew nothing about their relations, except that Ralston told me that Turpin was his agent, and I knew of his receiving checks from Turpin which I often cashed; they were drawn by Turpin & Ogden to Ralston's order. Turpin seemed to have more or less influence over Ralston, who looked on him as to a father.

I don't remember any facts showing his influence over him.

226 Turpin & Ogden would send me checks for Ralston's bills for clothing.

To the 6th direct interrogatory witness, answering, saith: I don't know that Mr. Ralston was engaged in any business. I don't think he was capable of attending to any business, because he was too much under the influence of liquor. In 1880, 1881, and 1882 he was about as bad as in any year I knew him. During those years he would lend anybody money he would consider his friend, and I thought this grew from the use of liquor, and he did not know the value of money, apparently. He was not capable of managing property or transacting business or of placing a proper estimate on property or of prudently disposing of it as persons ordinarily do during those years, except sometimes when he was sober he was more cautious.

To the 8th direct interrogatory witness, answering, saith: I don't think of anything more.

To the 1st cross-interrogatory witness, answering, saith: I believe he regarded me as a friend, also Mr. Turpin. He was always good and kind to me and ready to help me. I don't know that I ever saw Turpin influence him or any one else influence him. I tried to influence him to stop him from drinking. I tried to influence him not to buy a pair of horses on one occasion, but unsuccessfully. When I tried to stop his drinking I myself refused to drink with him.

To the 2d cross-interrogatory witness, answering, saith: As I have not stated that Ralston felt he was under personal obligations

227 to anybody, I can't give the names of any person whom he considered he was under obligations to.

To the 3d cross-interrogatory witness, answering, saith: I knew Ralston while he lived in Macon. I don't know just what year he lived in Stamford; he did live there some time. I think I lived in Yonkers then, but my business was in New York. He would come down to see me, and during part of the time he would only drink ginger ale. I visited Stamford once or twice while he was there.

To the 4th cross-interrogatory witness, answering, saith: I don't know that I ever knew Turpin to influence Ralston, except not to drink. Turpin asked me to influence him not to drink, but I could not succeed in doing so.

To the 5th cross-interrogatory witness, answering, saith: I cannot state any influence that Turpin exercised or exerted over Ralston, to my knowledge.

To the 6th cross-interrogatory witness, answering, saith: He was not engaged in any business when I knew him. I always supposed he lived on his money.

To the 7th cross-interrogatory witness, answering, saith: I don't know of any instance of his being influenced, but I think that was his character. I did not impose on him. He would come in drunk and order clothing of me, and when he was sober I would ask him if he intended it. He would order clothing for other persons sometimes, when drunk, and I would ask him when sober if he
228 wanted them made up; sometimes he would say no and sometimes yes.

HORACE E. JONES.

We certify that the foregoing examination of the witness, Horace E. Jones, was taken in our presence separate and apart from any other witness in the cause and was subscribed and sworn to by him in our presence.

CHARLES W. PLEASANTS,
JOS. H. MOHUN,
Commissioners.

JOHN SHEERAN, being duly sworn, deposes and testifies as follows (March 28th, 1885):

To the 1st direct interrogatory witness, answering, saith: I reside at 334 West 47th street, and do business at 302 W. 24th St.; am a liquor dealer.

To the 2d direct interrogatory witness, answering, saith: I knew both Jas. A. Ralston and Ida, his wife; knew Mr. Ralston between 4 & 5 years and Mrs. Ralston not much, except I saw her once or twice during his life. The- lived on 22d St. when I first saw Mrs. Ralston. When I first saw Mr. Ralston I don't know where they lived. I saw him very frequently, but her only once or twice.

To the 3d direct interrogatory witness, answering, saith: I would see Mr. Ralston 2 or 3 times a week, and he was always
229 under the influence of liquor, and sometimes considerably so. He was not very profuse in spending money with me. He got credit and paid me at end of month. He was extravagan

with his money. He would order drinks and take a handful of cigars, which I would prevent him from taking. He had no proper conception of money. A few days after he got his allowance of money he would be without any, and would then get credit He was easily influenced by those whom he regarded as his friends, and more so by those whom he supposed had placed him under personal obligations.

To the 4th direct interrogatory witness, answering, saith: In 1880, 1881, and 1882. Generally when I saw him he was under the influence of liquor. His mind would, apparently, wander and be disconnected. On the few times I saw him sober he was very quiet and said very little. He was rarely sober during those years, and he used liquor excessively. This excessive use of liquor weakened him physically and mentally.

To the 5th direct interrogatory witness, answering, saith: I do not know Geo. B. Turpin, and I know nothing of his influence over Ralston.

To the 6th direct interrogatory witness, answering, saith: Ralston was not engaged in any business that I know of in 1880, 1881, and 1882, except he would say he was going to his office, at Mr. Jones', to get his letters. I don't think he was capable of doing business in those years, and that arose from his excessive drinking. I
230 think from his drinking he was in a condition that made him liable to be influenced by others and especially those he regarded as his friends. I don't think he was capable of managing his property or transacting business as persons ordinarily do or of placing a proper estimate on property or of prudently disposing of it.

To the 8th direct interrogatory witness, answering, saith: I can't say anything more.

To the 1st cross-interrogatory witness, answering, saith: I heard him speak of his agent, Turpin, whom he regarded as his friend, Ralston's father having brought Turpin up from a small boy. I never saw anybody influence him. I think he thought very highly of Mr. Jones; always was very friendly with me. I never influenced him, except to try and influence him not to drink, but he would say, "If I can't get it here I can go some place else."

To the 2d cross-interrogatory witness, answering, saith: I don't know who Ralston was led to believe he was under obligations to. I can't tell how he thought he was under obligations. I can't give the names of the persons, places, and dates, nor if they ever influenced him to do anything.

To the 3d cross-interrogatory witness, answering, saith: I did not know Ralston while he lived in Macon. I knew him while he lived in Stamford, Conn., in 1880 and 1881, and I lived in New York then. While he lived in Stamford he came to my place several times, generally under the influence of liquor. I never went to Stamford to see him.

231 To the 4th cross-interrogatory witness, answering, saith: I never knew Turpin to influence Ralston at all. I do not

know whether Turpin ever asked me to stop Ralston from drinking. I did not succeed in stopping Ralston from drinking.

To the 5th cross-interrogatory witness, answering, saith: I do not know anything about the influence Turpin had over Ralston.

To the 6th cross-interrogatory witness, answering, saith: While I knew Ralston he was not engaged in any business, and appeared to live on his money.

To the 7th cross-interrogatory witness, answering, saith: When I say Mr. Ralston was subject to imposition by anybody he had confidence in, especially, that was my judgment of his character. I never imposed on him.

JOHN SHEERAN.

We certify that the foregoing examination of the witness, John Sheehan, was taken in our presence separate and apart from any other in the cause and was subscribed and sworn to by him in our presence.

CHARLES W. PLEASANTS,
JAS. H. MOHUN,
Commissioners.

Endorsements on Envelope Containing Above Depositions.

On the face.

232 U. S. Circuit Court, So. Dist. of Georgia.

IDA RALSTON, Complainant,
vs.
GEORGE B. TURPIN, as Trustee for His Children, *et al.*, Def'ts. } No. —.

Bill in equity. Filed the 7th day of August, A. D. 1883.

To the clerk of the United States circuit court, Macon, Georgia.

Depositions of John O. Brintnall, Margaret O'Brien, W. Gill Wylie, Wm. R. Pryor, Horace E. Jones, John Sheeran, witnesses on part of complainant.

On the back.

I, Charles W. Pleasants, one of the commissioners on the within commission, do hereby certify that I have this day deposited in the post office at New York city the inclosed commission and depositions for transmission by mail to Macon, Ga.

This 28th day of March, 1885.

CHARLES W. PLEASANTS,
Commissioner.

POST OFFICE, NEW YORK CITY.

Received this package from Charles W. Pleasants to be transmitted by mail to Macon, Ga., this 28th day of March, 1885.

J. GAYLER,
Deputy Postmaster.

POST OFFICE, MACON, GA.

Received this package by due course of mail this 29th day
233 of March, 1885.

W. W. BROWN, *P. M.*

Received by mail and filed this 4th day of April, 1885.

L. M. ERWIN,
Deputy Clerk.

(Across the seals on the back :) Jos. H. Mohun, C. W. Pleasants; Jos. H. Mohun, C. W. Pleasants; Jos. H. Mohun, C. W. Pleasants.

Order to open.

Received this package from postmaster, Macon, Ga., in open court, with leave to open, May 6th, 1885.

EMORY SPEER,
U. S. Judge.

Testimony for Defendant-.

Deposition of John H. Dobbs, Witness on Part of Defendant-.

In 5th Circuit Court U. S., Western Division, Southern Dist. of Georgia. In Equity.

IDA RALSTON *vs.* GEORGE B. TURPIN, Trustee, *et al.*

Interrogatories.

Original interrogatories to be propounded to John H. Dobbs, a material witness for the defendant- in the above-stated case, who lives and resides in the city of New York, State of New York, at # 60 Barclay St.

234 Int'y 1st. Do you know the parties?

Int'y 2d. Did you know James A. Ralston; if so, how long did you know him, and how often did you see him after your acquaintance with him?

Int'y 3d. State whether you are the witness who signed a deed in the city of New York to Mrs. Ida Ralston by James A. Ralston; if so, state as near as you can what time you signed said deed as witness.

Int'y 4th. State what was the condition of said James A. Ralston at the time he signed said deed—that is, as to rationality and as to his capacity to attend to business.

BACON & RUTHERFORD,
Def'ts' Sol's.

Acknowledgment.

We acknowledge due and legal service of the within int'*ys* and waive further service. Let commission issue. We nominate Charles E. Mills, Esq., 115 Broadway, New York, as commissioner.
Jan'y 28th, 1885.

LANIER & ANDERSON,
Compl't's Sol's.

Cross-Interrogatories.

We object to the foregoing 3d & 4th interrogatories on the ground that they are irrelevant and illegal.
Jan'y 29th, 1885.

LANIER & ANDERSON,
Compl't's Sol's.

235 If the above objections are overruled and the witness is allowed to answer them we ask the following:

Cross-int'y 1st. When and where did you see James A. Ralston mostly? Don't you know that before he was of age, and after, he left all his business in the control of George B. Turpin? Was he not greatly addicted to the use of intoxicating liquors? Don't you know that he had very little business capacity or disposition to attend to business? Don't you know that he constantly drank intoxicating liquors to excess, and that his mind and body were greatly enfeebled thereby? Don't you know that George B. Turpin had more influence over him than anybody else, and that he was in the habit of doing, as to any and all his business matters, just as said Turpin wished or proposed?

Cross-int'y 2d. State any matter or thing you may know not specially enquired about tending in favor of the complainant.

LANIER & ANDERSON,
Compl't's Sol's.

(Endorsement:) Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Int'*ys* for John H. Dobbs. Filed April 29th, 1885. L. M. Erwin, deputy clerk.

236. *Commission to Examine Witnesses.*

UNITED STATES OF AMERICA,
Western Division, Southern District of Georgia:

In the Circuit Court of the United States for the Western Division, Southern District of Georgia.

To Charles Nettleton and Charles E. Mills, for compl't, and J. H. Mahan and W. C. Hodgkins, for def't, Esquires, Greeting:

Know ye that, in confidence of your prudence and fidelity, you are hereby appointed and by these presents are vested (any two or

more of you) with full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be exhibited to you in a certain cause pending and to be tried in the said court between Ida Ralston, complainant, and George B. Turpin, trustee, defendant, as well on the part of the said plaintiff as on the part of the said defendant or either of them.

And it is required of you (or any two or more of you) that on certain days and at certain places, by you to be appointed for that purpose, you do cause the said John H. Dobbs, a material witness on the part of the defendant, to come before you and then and there examine him upon the said interrogatories on his corporal oath, first taken before you (or any two or more of you) on the Holy Evangelists, and that you do take such his examination and reduce it into writing, and when you have so taken it you are to send the same to the clerk of the circuit court of the United States for the southern district of Georgia, at Macon, Georgia, closed up and under your seals (or the seals of any two of you), distinctly and plainly set, together with the said interrogatories and this writ; and, further, that you and each of you, before you act in or be present at the swearing or examining — any witness or witnesses, do severally take the oath first specified in the schedule hereunto annexed, and full power is given you or either of you, jointly or severally, to administer such oath to the rest or any other of you upon the Holy Evangelists; and it is further required of you that all and every of the clerk or clerks employed in taking, writing, transcribing, or engrossing the deposition or depositions of witnesses to be examined by virtue of these presents shall, before he or they be permitted to act as clerk or clerks as aforesaid or be present at such an examination, severally take the oath last specified in the said schedule annexed, and full power and authority is also given you or any of you, jointly or separately, to administer such oath to such clerk or clerks upon the Holy Evangelists.

Witness the Honorable Marrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of Macon, this 29th day of April, in the year of our Lord one thousand eight hundred and eighty-five, and the one hundred and ninth year of American Independence.

[L. S. of the Court.]

L. M. ERWIN,
Deputy Clerk.

Observe carefully the instructions on the next page.

237 SCHEDULE.

The Commissioners' Oath.

You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and

every witness and witnesses produced and examined by virtue of the above commission upon the interrogatories now produced and left with you; and you shall not publish, disclose, or make known to any person or persons whatsoever, except to the clerk or clerks by you employed and sworn to secrecy in the execution of this commission, the contents of all or any of the depositions of the witnesses or any of them to be taken by you and the other commissioners in the said commission named or any of them by virtue of the said commission until publication shall pass by rule or order of said court, so help you God.

JOS. H. MAHUN.
CHARLES E. MILLS.

Subscribed and sworn to before me this fifth day of May, A. D. 1885.

CHARLES E. MILLS,
Commissioner, &c.
JOS. H. MAHUN.

The Clerk's Oath.

You shall truly, faithfully, and without partiality to any or either of the parties in this cause take and write down, transcribe, and engross the depositions of all and every witness and witnesses produced before and examined by the commissioners or any of them named in the commission hereunto annexed so far forth as you are directed and employed by the said commissioners or any of them to take, write down, or engross the said depositions or any of them; and you shall not publish, disclose, or make known to any person or persons whatsoever the contents of all or any of the depositions of the witnesses or any of them to be taken, written down, transcribed, or engrossed by you or whereto you shall have recourse or be in anywise privy until publication shall pass by rule or order of the said court, so help you God.

E. J. BUNKER.

Subscribed and sworn to before me this fifth day of May, A. D. 1885.

CHARLES E. MILLS,
Commissioner, &c.

Instructions for the Commissioners.

Upon the receipt of the commission one of the commissioners will read it. The acting commissioners and the clerk will take and subscribe the oaths attached to the commission. The commissioners may be sworn one by the other, and the clerk by one of them; then they proceed to take and the clerk to engross the depositions of the

witnesses, to which depositions there will be a caption stating the case and cause of action in the following form:

In the Circuit Court of the United States for the Southern District of Georgia, Western Division.

A B
vs. } Case.
C D.

Examinations and depositions of witnesses produced, sworn, and examined by the undersigned commissioners in virtue of the annexed commission issuing out of the honorable the circuit court of the United States for the southern district of Georgia, taken and reduced to writing, in — (the place where the commission is executed), on this — day of ——, 18—.

E F, aged — years, being duly —, answers and deposes as follows, to wit:

To the first direct interrogatory the witness, answering, saith:

And so on to each successive direct interrogatory.

Then follow the cross-interrogatories, if any.

The witness must subscribe his name at the foot of his deposition and in the margin of each sheet, if more than one, and the commissioners attest the same as sworn to and subscribed in their presence. The attestation of the commissioners must appear at the foot of the deposition of each witness, if more than one. The depositions must be attached to the commission. Each commissioner writes his name across a seal of the envelope, and the package is directed to the clerk, as stated in the body of the commission. The title of the cause must appear on the outside of the envelope.

When a commission is returned by mail the postmaster receiving it from the commissioner must certify to the fact, and the postmaster delivering it to the court must certify to its reception by due course of mail. The usual abbreviation or initials of Christian names of the commissioners, witnesses, postmasters, etc., shall be sufficient. Rule 51, adopted April term, 1873.

If the commission be returned by a messenger he must deliver it personally to the clerk and make the usual affidavit.

238 *Deposition.*

UNITED STATES OF AMERICA,
Western Division, Southern District of Georgia:

In the Circuit Court of the United States for the Western Division, Southern District of Georgia.

IDA RALSTON, Complainant,
versus
GEORGE B. TURPIN, Trustee, Defendant.

STATE OF NEW YORK,
City and County of New York, } *ss:*

Examination and deposition of John H. Dobbs, a witness produced, sworn, and examined by the undersigned commissioners, in virtue of the annexed commission issuing out of the honorable the United States circuit court *of the United States* for the southern district of Georgia, taken and reduced to writing in room 20, No. 115 Broadway, New York city, New York, on this the 5th day of May, A. D. 1885.

Present: The witness, John H. Dobbs; J. H. Mahun, Esq., commissioner; Charles E. Mills, Esq., commissioner; E. J. Bunker, clerk.

239 JOHN H. DOBBS, aged 43 years, being duly sworn that the evidence he should give in the within-entitled cause should be the truth, the whole truth, and nothing but the truth, answers and deposes as follows:

1st. To the first direct interrogatory the witness answers and says: I do.

2d. Second direct interrogatory: I knew James A. Ralston very well for twenty years, and saw him frequently in New York and Macon.

3d. To the third direct interrogatory he says: I am the witness who signed a deed in the city of New York to Mrs. Ida Ralston, by James A. Ralston, about three years ago this summer.

4th. To the fourth direct interrogatory he says: At the time he signed that deed he was all right, so far as I know. He was able to attend to business.

To the several cross-interrogatories propounded to the witness he further deposeth and saith as follows:

1st X. To the first cross-interrogatory he saith: I saw him mostly in Macon, Georgia. I saw him weekly, whenever he was in town. I saw him frequently between 1870 and 1880. I saw him as often between those years as I have mentioned. I also saw him frequently here in New York. I knew that George B. Turpin was his
240 trustee, and that all of his business was in his, Turpin's, control. I don't know exactly how old Mr. Ralston was, but

witnesses, to which depositions there will be a caption stating the case and cause of action in the following form:

In the Circuit Court of the United States for the Southern District of Georgia, Western Division.

A B
vs. } Case.
C D.

Examinations and depositions of witnesses produced, sworn, and examined by the undersigned commissioners in virtue of the annexed commission issuing out of the honorable the circuit court of the United States for the southern district of Georgia, taken and reduced to writing, in — (the place where the commission is executed), on this — day of ——, 18—.

E F, aged — years, being duly —, answers and deposes as follows, to wit:

To the first direct interrogatory the witness, answering, saith:

And so on to each successive direct interrogatory.

Then follow the cross-interrogatories, if any.

The witness must subscribe his name at the foot of his deposition and in the margin of each sheet, if more than one, and the commissioners attest the same as sworn to and subscribed in their presence. The attestation of the commissioners must appear at the foot of the deposition of each witness, if more than one. The depositions must be attached to the commission. Each commissioner writes his name across a seal of the envelope, and the package is directed to the clerk, as stated in the body of the commission. The title of the cause must appear on the outside of the envelope.

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If the commission be returned by a messenger he must deliver it personally to the clerk and make the usual affidavit.

238 *Deposition.*

UNITED STATES OF AMERICA,
Western Division, Southern District of Georgia:

In the Circuit Court of the United States for the Western Division, Southern District of Georgia.

IDA RALSTON, Complainant,
versus
GEORGE B. TURPIN, Trustee, Defendant.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Examination and deposition of John H. Dobbs, a witness produced, sworn, and examined by the undersigned commissioners, in virtue of the annexed commission issuing out of the honorable the United States circuit court *of the United States* for the southern district of Georgia, taken and reduced to writing in room 20, No. 115 Broadway, New York city, New York, on this the 5th day of May, A. D. 1885.

Present: The witness, John H. Dobbs; J. H. Mahun, Esq., commissioner; Charles E. Mills, Esq., commissioner; E. J. Bunker, clerk.

239 JOHN H. DOBBS, aged 43 years, being duly sworn that the evidence he should give in the within-entitled cause should be the truth, the whole truth, and nothing but the truth, answers and deposes as follows:

1st. To the first direct interrogatory the witness answers and says: I do.

2d. Second direct interrogatory: I knew James A. Ralston very well for twenty years, and saw him frequently in New York and Macon.

3d. To the third direct interrogatory he says: I am the witness who signed a deed in the city of New York to Mrs. Ida Ralston, by James A. Ralston, about three years ago this summer.

4th. To the fourth direct interrogatory he says: At the time he signed that deed he was all right, so far as I know. He was able to attend to business.

To the several cross-interrogatories propounded to the witness he further deposeth and saith as follows:

1st X. To the first cross-interrogatory he saith: I saw him mostly in Macon, Georgia. I saw him weekly, whenever he was in town. I saw him frequently between 1870 and 1880. I saw him as often between those years as I have mentioned. I also saw him frequently here in New York. I knew that George B. Turpin was his
240 trustee, and that all of his business was in his, Turpin's, control. I don't know exactly how old Mr. Ralston was, but

presume it was both before and after he was of age that Mr. Turpin had charge of his business. He used to drink a great deal. He would have his sprees and sober days. I think he had the capacity, but I don't think he had the disposition, to attend to his business. He did drink to excess at times. As to the effect on his mind and body I am not able to state. I believe George B. Turpin had more influence over him than anybody else. I don't believe he would let every thing go without saying a word, but all his business matters were mostly done as Turpin wished or proposed.

2d X. To the second cross-interrogatory he saith: I don't think I know anything further.

JOHN H. DOBBS.

Examination taken, reduced to writing, and by the witness, John H. Dobbs, subscribed and sworn to this 5th day of May, 1885.

CHARLES E. MILLS,
Commissioner, &c.
JOS. H. MAHUN,
Commissioner.

Commissioner's fees	$20 00
Postage	50
	$20 50

Endorsement on Envelope Containing Above Deposition.

(On the face.)

241 U. S. Circuit Court, Western Division, So. Dist. of Georgia.

IDA RALSTON
vs.
GEORGE B. TURPIN, Trustee. } No. 31.

Bill in equity. Filed the 7th day of August, A. D. 1883.

To the clerk of the United States circuit court, Macon Georgia.

Deposition of John H. Dobbs, witness on part of defendant.

(On the back.)

I, Charles E. Mills, one of the commissioners on the within commission, do hereby certify that I have this day deposited in the post office at New York city, New York, the inclosed commission and depositions for transmission by mail to Macon, Ga.

This 6th day of May, 1885.

CHARLES E. MILLS,
Commissioner, No. 115 Broadway, N. Y. City.

POST OFFICE, NEW YORK CITY, *May 6th*, 1885.

Received this package from Charles E. Mills, to be transmitted by mail to Macon, Ga., this 6th day of May, 1884.

H. GU———.
LEND. POST,
Acting Deputy P. M.

POST OFFICE, MACON, GA.

Received this package by due course of mail this 8th day
242 of May, 1885.

WM. W. BROWN, *P. M.*

Received by mail and filed this 9th day of May, 1885.

M. ERWIN,
Deputy Clerk.

(Across the seals on the back:) Jos. H. Mohun, commissioner; Charles E. Mills, commissioner.

Order to open

Counsel have leave to open the within interrogatories and answers May 11, 1885.

EMORY SPEER,
U. S. Judge.

Testimony Taken before E. F. Best, Examiner.

Mrs. IDA RALSTON, Complainant,

versus

GEORGE B. TURPIN, Trustee, *et al.*, Defendants.

Pursuant to an order from the fifth circuit court of the United States for the western division of the southern district of
243 Georgia, appointing the undersigned examiner to take testimony in the foregoing case, the following counsel appeared before me on the 7th day of January, 1885, to wit, Lanier & Anderson and W. Dessau, Esq., for the complainant; John C. Rutherford, Esq., for defendants, and the examination of witnesses was commenced.

A. PROUDFIT sworn for defendants.

Direct examination:

Mr. RUTHERFORD: I will get you to state whether you knew James A. Ralston.

A. Yes, sir.

Q. How long did you know him?

A. Well, I have known him since 1869, when I first came to Macon.

Q. Where was he living and where were you living?

A. In Macon.

Q. How long did he continue to live in Macon?

A. I think he went to New York in '77 or the year of the Centennial, I don't know which.

Q. How long have you continued to live in Macon?

A. I have been living here continuously since that time. I came to Macon in 1869.

Q. During this time did you see him frequently?

A. Yes, sir.

Q. This (handing same to witness) is a deed mad- in the State of New York on the 28th day of August, 1880, between James A. Ralston to George B. Turpin, as trustee for his children. Examine that deed.

(The deed exhibited to witness was Exhibit "A" of the original bill).

244 A. I wrote this deed in the city of New York myself, at No. 13 Chambers street.

Mr. DESSAU: That is the only deed you witnessed?

A. Yes, sir.

Mr. RUTHERFORD: I will get you to state whether or not you witnessed the execution of this deed.

A. Yes; I saw him sign the deed at the office of C. E. Mills, 117 Broadway. Mills was a notary.

Q. Did he sign it freely and voluntarily?

A. He did, sir.

Q. What was his condition as to sobriety at the time?

A. He was perfectly sober. I can state a fact about that. Mr. Turpin on the evening before that, on Friday evening—he asked me—he told me——

Mr. ANDERSON: Stop!

The WITNESS: At his request I went to the office of C. E. Mills to meet Ralston and his wife that morning about 10 o'clock.

Mr. ANDERSON: On the Friday previous?

A. No, sir; it was on Saturday that the deed was executed. We went to the office; he was to meet us there at 10 o'clock, and we waited there, I suppose, an hour before he and his wife came in. He had, he said, some delay of the train and that was the reason they were not there earlier. He signed the deed and said he was very sorry he had delayed us. He witnessed the deed in my presence and in the presence of C. E. Mills. Mr. Mills witnessed the deed and I witnessed it and Mr. Ralston signed it in our presence. He
245 was not solicited by anybody to sign it, just asked me if I had the papers there, and I told him yes, and he read it and signed it. After we got through we went down-stairs. His wife wanted to buy some things and we went on back to the elevated railroad and got off at the station on 8th street on the 6th avenue elevated railroad. There is a station at 8th street and we got off there. I don't know whether it is Waverly or Clinton place or what street intersects it at that point of 8th St., and we walked

on up the street and we got to talking and Jim got to talking about this deed and why he made the deed—what induced him to make it. He said that Mr. Turpin had always been a great friend of his, and that he was under a great many obligations to him and had been so since his father's death, and if it hadn't been for him he wouldn't have anything; that he preserved his property for him; that he had been wild; so finally we passed by a very fine saloon; it was on 8th street, on the right-hand side coming towards Broadway, and he says, "Let's go down here and take a cocktail; it is the first drink I've had to-day." I told him I didn't care anything about it, but, at all events, he insisted on it and at his solicitation I went down, and, I believe, I took a drink with him. He told me that was the first drink he'd had that day. We went on up to his tailor shop, at the corner of 8th street and Broadway, and we had considerable conversation there on various topics. You (Mr. Turpin) were not with me.

Q. Was Mr. Turpin with you at the time he (Ralston) spoke about his reasons?

A. No, sir; I was by myself; he and I were alone.

246 Q. You have already stated that he was perfectly sober. What was his condition as to rationality?

A. He was perfectly rational. When he got to the office he stated that he was sorry he had detained us, but there had been some delay on the railroad; there were a great many trains on the Hartford railroad, and he had kept us waiting an hour.

Q. You state that at the time he signed the deed he was perfectly sober and perfectly rational?

A. Yes, sir.

Q. Did he know perfectly what he was doing?

A. I should think he did from what he said to me after he had executed the deed as to why he did it.

Q. Did the commissioner ask him with reference to signing the deed?

A. Yes; he interrogated him.

Q. State in substance the questions.

A. He asked him the same questions you will find on that deed. He took a stamp down—there were a great many that he had in a case of the various States—and he told him there was the place to sign it.

Q. You can state in substance what he asked him.

A. We were all there together. Mr. Ralston asked me if I had the papers, and he took the papers and read them himself.

Q. Who?

A. Jim Ralston, and I think the notary asked him one or two questions.

Q. He read this deed that he signed?

A. Yes. sir.

247 Q. Before signing it?

A. Yes; it took him some time to read it, too, because it was a very long deed. I don't remember how many questions he

asked him. When I speak of the commissioner interrogating Ralston I mean Mrs. Ida Ralston.

Q. Did the commissioner ask him if he understood the nature of the deed?

(Counsel for complainant objected to the question as leading.)

A. I don't remember whether he did or not.

Q. I will get you to examine that paper signed by Mrs. Ralston.

(The paper handed witness was a ratification of the deed made to George B. Turpin by James A. Ralston, and was part of Exhibit "A" of the original bill.)

A. This was signed in my presence by her.

Q. State the substance of that paper.

A. It is dated the 28th day of August, 1886, which was, as a matter of course, the same day the deed was signed there. It is signed by Ida Ralston, who was the wife of Jim Ralston.

Q. Did you see her sign that paper?

A. Yes, sir.

Q. Who witnessed it?

A. I witnessed it, so did Mr. Charles Edgar Mills, in the office of Mills, 117 Broadway.

Q. I will get you to state whether or not she signed it freely, voluntarily, and of her own accord.

248 A. She did. She read the original deed herself and she read the paper. When I gave her this paper I says, "Now, read this." She read it and asked me for the deed Jim had signed, and I gave it to her, and she read all that printed part of it.

Q. Read the deed before signing that ratification?

A. Yes, sir.

Q. Was she perfectly sober at the time?

A. She was.

Q. State whether or not she knew what she was doing.

A. I should think so, sir; she appeared to be a very intelligent woman.

Q. State what solicitations or pursuasions, if any, were offered to induce her to sign it.

A. Not a bit in my presence; not at all.

Q. I will ask you whether or not she did not do it very willingly?

A. She didn't hesitate to do it; she sat down and signed it after reading it.

Q. Everything pleasant.

A. Yes; she said she was sorry she kept us waiting; she expressed more regret than Jim did. I know I got very tired waiting for them.

Q. When was the last time you saw James Ralston?

A. That was the last time I ever saw him. I don't think I have seen him since. I don't think he has been to Macon since, and I never saw him in New York afterwards.

No other questions for Mr. Proudfit.

Cross-examination:

Mr. ANDERSON: What is your avocation?

249 A. I am a lawyer.

Q. What year were you admitted to the bar?

A. In 1866.

Q. You were practicing law in 1869?

A. Yes; that was the year I moved to Macon.

Q. You were the attorney who drew this deed you have testified about?

A. Yes, sir.

Q. You say you went to the office?

A. Of Charles Edgar Mills.

Q. You went there at Mr. Turpin's request?

A. I went there in company with him.

Q. At his request?

A. Yes, sir.

Q. You had prepared the deed before going there?

A. Yes; I prepared it on Thursday or Friday before.

Q. At Mr. Turpin's request?

A. Yes, sir.

Q. Where did you draw the deed?

A. At the office of Townsend & Mohun, No. 13 Chambers street, on the Thursday or Friday before it was signed.

Q. Who was present?

A. I was in a room by myself. They had a suit of rooms there.

Q. Was Mr. Turpin there?

A. No, sir.

Q. Where did you meet him when he asked you to draw the deed? Where were you when he asked you to draw the deed?

A. We were stopping at the Sturdevant House.

Q. Did you go on to New York together?

250 A. No, sir.

Q. How long had you been in New York?

A. I had been to Saratoga some time; I don't know how long.

Q. How did you come to meet with Mr. Turpin?

A. I met him at the Grand Union Hotel in Saratoga.

Q. How long before this deed was signed?

A. About two weeks; I won't state certain.

Q. Did you come on together to New York?

A. No, sir; I came by myself.

Q. Who came first from Saratoga?

A. I generally came first; he always staid there longer than I did.

Q. Were you and him in the habit of being there together?

A. Yes; I met him there nearly every year.

Q. When you met him there was that the first time he spoke to you about preparing the deed?

A. I don't think he said a word to me about it until we got to New York; he may have, but I don't recollect it; probably he said something to me about what Jim Ralston wanted to do about his

property, but he never told me what he wanted done until I saw him at the hotel in New York.

Q. How long before the deed was signed was it that he asked you to draw it up?

A. The deed was signed on Saturday and he must have asked me to draw up the deed on Wednesday, because I went to the law office early on Thursday or Friday morning and fixed up the deed. He told me Jim would be there on Saturday. He said they had telegraphed him that they would come any day that he
251 wanted them to come.

Q. Did Mr. Turpin pay you a fee for drawing that deed?

A. When I got back to Macon he asked me what I charged him, and I told him I couldn't charge him anything. He said he wanted to pay me something, and he insisted and I told him $10.00; but in New York I had no idea of charging him. I wasn't practicing law in New York, and it was an act of friendship on my part.

Q. There was nothing said about a fee in New York?

A. No, sir; after I got back he asked me about it and paid me $10.00; he insisted on it; I told him if I charged him anything it would not be less than $10.00. He insisted and I made the nominal charge of $10.00; it was worth more than that, of course, because I had trouble about it.

Q. How?

A. It is at least 2 or 3 miles from the hotel to Chambers street.

Q. You went on the elevated railroad?

A. Yes.

Q. Is that all the trouble you had about it?

A. Then I went down and drew the deed and took it back with me and went to Mills' office on the Saturday following; that is three or four miles, too.

Q. Did you show the deed to Mr. Turpin after you had drawn it up?

A. I expect I did; I don't know whether I did or not; I don't remember whether he saw it or not.

Q. He told you what to put in it?

A. Yes, sir; I asked him what houses on Cherry street; he said he didn't know the numbers, and so he telegraphed Alex.
252 Black and received a telegram the next morning stating the street numbers of the buildings; he didn't know them himself.

Q. You drew the deed under his directions?

A. Yes; I certainly did. I didn't know myself what he wanted done.

Q. And carried it to the office, where you met Ralston and his wife?

A. Yes, sir.

Q. It was all prepared when you got there?

A. Yes; it wasn't dated, though.

Q. Everything but the date was all prepared before you and Turpin went to the office to meet Ralston and his wife?

A. Yes; I spoke of the paper Mrs. Ralston signed. I think I wrote that at the office.

Q. See if you can refresh your recollection about it, and be certain if you can. How was it that that paper was not prepared until you got there?

A. The fact is, I didn't think about it.

Q. Who suggested that?

A. I done it myself; didn't anybody suggest it to me, because I knew the law of Georgia didn't require anything of this sort, but out of abundant caution, she being a resident of Connecticut and signing this paper in New York, I told Mr. Turpin we had better do this, and I sat down, and I think wrote this paper in Mill's office, and I did it out of abundant caution, because Mr. Turpin asked me to do it all right for him. He requested me to have these papers executed properly, and out of abundant caution I got her confirmation of that deed. I didn't know what effect the deed might have, she being a resident of Connecticut. In New York they required
253 a wife's signature to a deed, I think.

Q. Did Mr. Turpin have anything to say to Mr. Ralston and his wife besides talking about the delay?

A. No; they were both regretting that they had delayed him.

Q. Was that the only conversation?

A. That was the only conversation I heard them have. They all exchanged the ordinary salutations, and one thing and another.

Q. There was no conversation about the deed at all, except that Mr. Ralston read it and his wife read it?

A. He asked me if I had the papers fixed up that he had written to Mr. Turpin of what he wanted done. I told him yes. He took the deed and read it himself. I did not know that Mrs. Ralston was going to be there; if I had I would probably have prepared this paper she was to sign before. Out of abundant caution I may have prepared that paper there. I don't think Mr. Turpin told me she was going to be down at the office; if he did tell me so the paper she signed must have been prepared before we got there; about this, however, I will not be certain.

Q. There was no other conversation about the transaction except what you have related?

A. That was all that I heard.

Q. That was the first time you had seen Ralston or his wife in respect to this matter?

A. I had never seen her before.

Q. Had you any conversation with him before that day about this business?

A. No, sir; I hadn't seen him in probably four or five years. I hadn't seen him since he left Macon.

Mr. ANDERSON: I have no other questions for Mr. Proudfit.

254 Redirect examination:

Mr. RUTHERFORD: I think you said that Mr. Ralston, in asking you whether you had the papers prepared, said he had written to Mr. Turpin what he wanted done.

A. Yes, sir; he asked me did I have the papers he was to sign. I told him yes; I had them prepared. That was what he asked me.

Q. I will get you to state whether or not, from the questions he asked you, he appeared to know what the papers were and what they were about.

A. He took the papers and read them. Then we went on down on the elevated railroad and walked up Broadway, and he told me why he had done it and the reason; said there would be plenty down there for his wife. He wanted to do this on account of the great friendship he and his father had towards Mr. Turpin.

Recross-examination:

Mr. ANDERSON: You say he said there would be plenty down there, in the event of his death, for his wife?

A. He said there was enough down there; there was other property that his wife could get.

Q. You say he said there was plenty?

A. He said there was other property there.

Q. You remarked just now that he said that there was plenty there, in the event of his death, for his wife?

A. I think that was about what he said to me.

Q. Now, in regard to that other matter that Mr. Rutherford asked you about. He asked you a question, and I didn't understand your answer to it, as to whether he (Ralston) said anything about
255 having written to Mr. Turpin as to what he wanted done. Did he say anything more to you than to ask you if you had the papers ready?

A. That was all he asked me down there. He asked me this: Did I have the papers drawn up that he had written or he had told Mr. Turpin what he wanted?

Q. Did he state that he had written or told Mr. Turpin what he wanted?

A. I think that was what he said. He asked me about the papers. It has been nearly five years ago.

Q. I want to fix that.

A. I remember substantially what the conversation was.

Q. Did he say he had written to Mr. Turpin what he wanted done, or that he had told him, or did he say either?

A. He said this about the matter which — had either advised (I will say that) Mr. Turpin what he wanted done or had written to him— I don't know exactly what he said about that—that he had advised with him, or written to him, or had told him. I drew the papers up in accordance with his wishes.

Q. Whose?

A. Mr. Ralston's. He read the deed.

Q. You did not get any instructions from him?

A. No, sir.

Q. All you know about its being in accordance with his wishes is that he signed it?

A. I presumed so; he signed the papers.

Q. He had given you no instructions at all before that as to its preparation?

A. No, sir.

Q. You had not seen him about it?

256 A. No, sir; I hadn't received any communication from him whatever, except through Mr. Turpin.

Mr. ANDERSON: I have no other questions.

The WITNESS: About this paper here, I think I wrote this paper at the office of the notary, because I didn't know whether she would be there or not, but I won't swear positively as to where I did write that paper at. If Mr. Turpin did tell me she would be there I may have prepared the paper before going to the notary's office.

Q. You mean the ratification?

A. Yes, sir.

Q. You don't know whether you drew that up before you went there or afterwards?

A. I wouldn't swear about that; I don't know whether I did or not. I don't know whether I drew it up at the hotel, at the office of Townsend & Mohun, or at the office of Mills.

Q. Or whether it was before you went there or not?

A. No, sir. She signed it voluntarily after being examined by the notary in my presence.

ALEX. PROUDFIT.

W. H. Ross sworn for the defendants.

Direct examination:

Mr. RUTHERFORD: Colonel, you were not present at the time this deed from James A. Ralston to George B. Turpin, trustee, was made, on the 28th day of August, 1880?

A. No, sir.

Q. I will get you to state whether, about that time, the 28th of August, 1880, you were in New York.

257 A. In August? Yes, sir; I was there.

Q. I will get you to state whether you saw Jame- Ralston at the time you were there.

A. Yes, sir.

Q. When you saw him there had you heard that this deed had been signed?

A. No, sir. I believe I did hear before I left that he——

Q. Did Mr. Turpin call your attention to the fact that Mr. Ralston had made a deed to him as trustee?

A. Yes; before I left New York I did hear it.

Q. How often did you see him in New York at that time?

A. I don't recollect; I saw him several times. I didn't have but one conversation with him particularly.

Q. I will get you to state what his condition was at that time. Was he rational or irrational?

A. He was perfectly rational.

Q. I will get you to state whether or not he was in possession of his mental faculties.

A. I thought so from his conversation. I know he was, much to my surprise, sober—perfectly sober.

Q. State how long you had known James Ralston.

A. I have known him ever since he was a little boy.

Q. Where was he raised?

A. Here in Macon.

Q. Where have you lived ever since you have known him?

A. I have lived here in Macon, except about four years during the war.

Q. Except the four years during the war you have lived here?

A. Yes, sir.

Q. Did you ever hear him at any time speak of Mr. Turpin
258 and his feelings towards him?

A. Oh, yes; very often.

Q. Prior to the making of this deed did you ever hear him express his intention of giving to Mr. Turpin, for his children, any property?

A. I can't recall anything of that sort, but in speaking of Mr. Turpin as being a second father to him and as the only father he had known since his father's death.

Q. What did he say in reference to Mr. Turpin's management of his property and the preservation of it?

A. I don't recollect the exact language; I judged from what he said——

Mr. ANDERSON: Don't state that.

Mr. RUTHERFORD: State to the best of your recollection.

A. The substance was that Turpin had taken care of his property; had managed well; that he had given him entire control of it, and that he had no doubt but that Turpin had saved a great deal of his property.

Q. How long have you known Mr. Turpin?

A. Well, I have known him—I went to school with him in 1846 or '7 or '8; somewhere along there—I don't know how long.

Q. Has he lived here in Macon all the time?

A. Yes, sir.

Q. Do you know what relation Mr. Turpin sustained towards Mr. Ralston's father as to the management of his business?

A. Yes; Mr. Turpin was always regarded as Mr. Ralston's confidential man—that is, of Mr. Ralston, Senior. I knew Mr. Turpin attended to his business in a great measure and he was executor of Mr. Ralston.

Q. You say he had the confidence of James Ralston, Senior?
259 A. Did Ralston have confidence in him?

Q. Yes.

A. Yes, sir.

Q. Do you know what relation Mr. Turpin sustained to Mrs. Ralston, James Ralston's mother?

A. I know they were on good terms.

Q. Who did she intrust the management of her business to?

A. Mr. Turpin.

Q. Do you know who was the executor of her will?

A. I think that Mr. Turpin was one of them, and, I believe, Mr. Thornton was one.

Q. After his death (Ralston, Senior's) do you know who attended to the business for the executor or administrator of James Ralston, Senior?

A. I don't know of my own knowledge.

Q. Who always attended to the business of the Ralston property?

A. Mr. Turpin.

Mr. RUTHERFORD: No more questions.

Cross-examination:

Mr. ANDERSON: You state that you were surprised that James Ralston was sober when you met him in New York in 1880. I will ask you to state what had been his habit in that respect prior to that time?

A. Well, Mr. Ralston, of course, everybody knew that he drank.

Q. To what extent?

A. Well, I don't know.

Q. Wasn't he almost habitually drunk or very nearly so;
260 wasn't it his habit to drink to excess?

A. He drank to excess.

Q. Hadn't it been so for a great many years? Hadn't you seen him in that condition?

A. Of course, I had seen him sober.

Q. Wasn't it because you had generally seen him under the influence of liquor that you were surprised to see him sober?

A. I mean that he was entirely sober—without drinking at all.

Q. Isn't it true that he was generally in the habit of drinking to excess?

A. Well, he had those spells; I hadn't been with him; he was living in New York at the time.

Q. When he was here, before he went away, did he not almost continually drink too much?

A. No, sir; he did occasionally, but for a long time Jim Ralston was—of course, he got on those periodical sprees.

Q. Were they not quite frequent?

A. Well, I think he got on them too often; I don't know how often.

Q. You state that Mr. Turpin had the confidence of young Ralston's father and mother?

A. Yes, sir.

Q. The mother—what did you say about the mother?

A. I said I didn't know so much about the relationship between her and him, but I know she must have had confidence in him or she wouldn't have intrusted the management of her business to him.

Q. He had almost exclusive management of the business of Mr. Ralston, Senior, as well as Ralston, Junior?

261 A. I don't know that he had the entire management of it, but he intrusted him with his business.

Q. You don't mean that he had exclusive management of Mr. Ralston Senior's business, but after his death didn't he have almost exclusive management of his estate, particularly Ralston Junior's business?

A. I think so.

Q. Didn't Mr. Turpin have the entire confidence of James Ralston, Junior?

A. Oh, yes.

Q. And had had all the time, from his father's death down to his own death?

A. Yes, sir.

Q. Didn't he have a great deal of influence over James Ralston, Junior? Wasn't James Ralston, Junior, in a peculiar sense, subject to Turpin's influence?

A. I suppose he was willing to accept his advice and counsel; I don't know what particular influence he had over him.

Q. Young Ralston committed all his affairs to his management?

A. His business affairs; yes.

Q. Did he ever give any personal attention to his business here himself?

A. I don't know that.

Q. As far as your knowledge goes?

A. I have heard on one or two occasions where Mr. Turpin requested Jim Ralston to attend to certain matters.

Q. But, as a general rule, didn't Mr. Turpin have control and management of his business here?

262 A. That is my impression, without knowing.

Q. Did you ever transact any business with Mr. Turpin as agent of James Ralston, Junior; didn't you loan him some money once?

A. Yes.

Q. How much was that?

A. I think it was five thousand dollars.

Q. Didn't Turpin attend to that for him?

A. When I loaned the money he told me that Mr. Turpin would see it paid.

Q. Didn't Mr. Turpin have the papers prepared?

A. I don't know who had it done. I know the papers were prepared, but I don't know by whom.

Q. Turpin afterwards paid you the interest?

A. Yes, sir; I charged it to Mr. Ralston.

Q. You understood it as being for Ralston. Was the principal afterwards paid?

A. There was a large portion of it paid.

Q. Did Turpin act as agent of Ralston in paying that?

A. Yes; and took the receipts that way.

Q. Wasn't Ralston absent from here at the time the money was paid back to you?

A. I couldn't tell, Judge, now. I don't recollect whether he was here. I couldn't tell you now when it was paid.

Q. You heard James Ralston, Junior, say that Turpin had been a second father to him—the only father he had known since his father's death?

A. Yes, sir.

Q. How long was that before this deed was made—before you heard of its being made?

263 A. I won't undertake to say. He was very frequently with me and used to talk to me quite often. He knew that I knew that he and Turpin were on good terms, and he used to talk to me very often.

Q. Are you certain that it was before the deed was made or after?

A. Oh, yes; before the deed was made.

Q. Did you buy any property from Jim Ralston at any time—Triangular block?

A. No, sir; my father bought it.

Q. Do you know anything about who arranged the matter for Ralston?

A. My impression was that Ralston was present and probably made it himself, but I won't undertake to say that. My impression is—but there is no use of giving impressions.

Q. You don't remember who made the trade?

A. No, sir; Ralston was here at that time.

Q. That was before Ralston left here and went to New York to live?

A. Yes, sir.

Q. What Ralston was it?

A. Young Jim Ralston.

Q. Was that before the elder Ralston's death?

A. No, sir; since.

Q. Shortly before his death your father bought this property?

A. Yes; my father bought it.

Q. What sort of a person was young Ralston as to extravagance; was he free-handed in using money—did he spend a great deal?

264 A. He spent a good deal of money, I think.

Q. Did he have any proper conception of the value of money?

A. Oh, yes; he generally spent it on himself. He refused to pay a good many bills; said it was an imposition on him.

Q. He was an extravagant man on himself?

A. I think so. I don't know whether you would call it extravagant for his income. At one time I supposed his income was pretty good.

Q. Fifteen or twenty thousand dollars a year?

A. I don't know. I should judge it was fifteen thousand dollars.

Q. In spite of that he ran in debt a great deal?

A. I don't know about that.

Q. You have known him to dispute debts?

A. I have heard of his disputing bills; he said they were not just; that he wanted corrections, &c. That was only an evidence that he was looking after his own business.

Q. Didn't he, in spite of this large income, have to sell property? Didn't he sell property to your father to support himself?

A. I don't know his object.

Q. Did you hear of his increasing his estate by investment?

A. No, sir.

Q. Do you know that he increased his estate by investing that five thousand dollars?

A. No, sir.

Q. Do you know what your father paid for those stores?

265 A. Yes; I think it was seventeen thousand five hundred dollars.

Q. You do not know of his increasing his estate by investing that in any way?

A. No, sir; I don't know anything about that.

Q. Didn't the estate constantly dwindle instead of increase from the time of his father's death down to his own death?

A. That is my impression.

Q. Didn't you and Mr. Turpin have offices close by each other for a number of years while he was acting as agent for Ralston, Junior?

A. No, sir: I think not.

Q. What I wanted to get at was whether you did not see James A. Ralston, Junior, daily.

A. Yes, sir; I did have an office, but it couldn't have been very long before he left here.

Q. For years before James A. Ralston's, Junior's, death didn't you and Mr. Turpin have offices close together?

A. Yes, sir; we have had offices there close together for two or three years.

(Mr. DESSAU: Shortly after the failure of the City Bank?)

A. Oh, no.

Q. You say it was two or three years before his death?

A. I have been there two or three years. I was in the Hollingsworth block, and then I moved up town and moved upstairs over you (Mr. Turpin).

Q. What year did you move to the City Bank building?

A. I don't know.

Q. Had you an office there at the time you were in New

266 York when you say Turpin told you about this debt? Where was your office then?

A. I think it must have been upstairs in that building.

Q. Where was Turpin's office—down-stairs in the same building?

A. I don't know whether he was there or not; I could not say positively.

Q. Is it not a fact that for several years before Ralston Junior's death you and Turpin occupied offices contiguous?

A. In the same building, but not contiguous.

Q. Were they not so near that you saw him more or less every day?

A. No, sir.

Q. Didn't you see him very frequently and have occasion to know in that way what was going on between him and Jim Ralston in the way of business?

A. No, sir; I don't know that I knew what was going on; of course, I saw Turpin repeatedly.

Q. Did you know of Turpin, as agent for Ralston, making any investment for young Ralston that increased his estate?

A. No, sir.

Q. Did you ever know of his making any investment by which Ralston's estate was enlarged?

A. No, sir. I know that Ralston was always after Turpin for money, and he was always trying to keep him down.

Q. That was what I asked you—if he was not always spending instead of increasing his property?

A. Yes, sir.

Q. Didn't he go on in that way until his estate at the time of his death was very considerably reduced?

267 A. I think so, but I don't know to what extent.

Q. I don't expect you to tell the exact amount, but you know that it was considerably diminished?

A. Yes, sir.

Mr. ANDERSON: No more questions.

Redirect examination:

Mr. RUTHERFORD: Do you know of any other property that Ralston, Junior, sold besides the property he sold to your father?

A. I cannot recall any now; I don't know of any.

Q. When you loaned this five thousand dollars Jim Ralston signed the note and mortgage?

A. Yes, sir.

Q. Is it not true that Jim Ralston was a man who had a head and will of his own?

A. A pretty strong will.

Q. Mr. Anderson asked you something about Mr. Turpin's advice to him. Do you know of any other advice he gave him except to try to check him in drinking and in his wild habits?

A. I have heard him talk to Ralston frequently and speak of his mode of living; that it was wrong; that he ought to take care of his money, and give him advice just as he would his own son almost, or one who felt deep interest in him.

Q. Do you know whether Mr. Turpin had sufficient influence over him to keep him from drinking?

A. No one could keep him from doing that.

Q. I will get you to state in general terms whether or not

268 James Ralston was a man who could be easily influenced, or whether he was a man of a decided will of his own.

A. I don't think he could be influenced. That was what was in the way—he could not be influenced.

I do not believe I have any other questions.

Recross-examination:

Mr. ANDERSON: You mean influenced about such things as drinking or things he wanted to do to gratify his taste or passions, or anything of that sort? To what extent do you mean to say that?

A. I don't know to what extent, but I know he was a man of very strong will. When he wanted to do a thing he would go along and do it.

Q. Didn't he take kindly Mr. Turpin's remonstrances with him about drinking; didn't he take it much more kindly than from any one else?

A. I think he did.

Q. Wasn't he a man who would not have allowed people ordinarily to talk to him about such things?

A. I don't know; I have done it.

Q. Wasn't he a man that would consider it as an intrusion for a man that he didn't have any very great friendship for to speak to him about that?

A. Well, I don't know.

Q. Didn't Mr. Turpin talk to him more like Turpin's half-way earnest and pleasant style and a little cursing occasionally? Didn't he do it in some such style as that, or did he sit down and talk to him seriously?

A. He did it for his best interests.

Q. I mean his manner of doing it.

269 A. There was no duplicity about it.

Q. No; I don't mean that. Wasn't his manner not the manner of a man who would just sit down in a quiet, serious way, but rather an impulsive and emphatic way?

A. Oh, well, I don't think that, Judge. I think he talked to him as though he meant every word he said. I understand you.

Q. I know; but his way of doing it?

A. He talked to him just as a friend would talk to another.

Q. Didn't he talk to him in a way that probably no other man would have ventured to speak to him in; that his manner towards him was in the exercise of a liberty that perhaps no other man would have taken with Ralston?

A. I doubt if very few men would have gone to him and talked that way.

Q. Would he have allowed it?

A. He allowed me.

Q. You were also a particular friend; but would he have allowed people generally to talk to him as Turpin did?

A. I can't undertake to answer that question.

Q. I thought you knew him so well that you might form an opinion about it. You say he was a man who would have his own way when he took a notion to do a thing. Didn't Turpin exercise an influence over him generally in all his business matters?

A. I suppose in the main he did. I have known of some instances where they did not exactly agree, but in the main I think he did. I think he deferred to Turpin's opinion and advice and counsel. I

think Ralston was a man who didn't want to have anything to disturb him in the least.

270 Q. He committed his whole business matters to Turpin's management?

A. They discussed things, and I think Turpin carried out Ralston's ideas. I don't know that he did in every case, but I think they consulted, and he deferred to Turpin's opinion. I don't know of anything they had to do, except collect the rents.

Q. Pay bills and pay over the money to him?

A. Yes; he collected rents and kept his accounts (Turpin did so). There were a good many bills that he would have to endorse that Turpin paid.

No other questions.

Mr. RUTHERFORD: No other questions, I believe.

WM. H. ROSS.

A. J. ORR sworn for the defendants.

Direct examination:

Mr. RUTHERFORD: I will get you to state whether you knew James Ralston, Junior.

A. Yes, sir.

Q. How long had you known him?

A. I knew him after 1868; I came to Macon in '68; I met him that year, probably.

Q. You have been living here since?

A. Yes, sir.

Q. I will get you to state whether you saw him frequently or not while he was in Macon.

A. Yes; I saw him pretty near every day. I don't remember exactly whether I saw him every day or not, but in busi-

271 ness transactions, one or another, we frequently met.

Q. I will get you to state who managed Ralston's property here for him.

A. Mr. Turpin.

Q. Did you ever hear James Ralston say anything with reference to how he (Turpin) managed the property for him; whether he gave him satisfaction?

A. I frequently heard him say he wouldn't have any other man.

Q. How did Mr. Turpin manage the property for him?

A. So far as I know, very satisfactorily and in a business-like manner that pertained to his interest.

Q. I will get you to state whether or not you have ever heard Mr. Ralston say anything about Mr. Turpin and his feelings towards him and what he proposed to do for him by reason of his friendly and kindly feelings towards Mr. Turpin.

A. Well, I can state this much: Probably it would be well for me to state first my connections with Turpin & Ogden, having met him there more frequently than at any other time. I was with them as book-keeper.

Q. What year?

A. I came here in '68 and stopped at De Loache's and worked for B. A. Wise, and from him I went to Mr. Turpin. Mr. Wise and I had some little misunderstanding and I quit him one morning and got a position that afternoon.

Q. How long after you came here before you formed a business relationship with Turpin & Ogden?

A. I think it was in '69; it must have been '69.

Q. How long did you remain there?

A. Some two or three years, according to my recollection.

272 During that time I had frequent conversations with Mr Ralston. He was coming in and getting money from me and also from Mr. Turpin, sometimes cash and sometimes checks, and I often used to say to him, "Jimmie, you are very extravagant." He would say, "Yes; I know it; but I live for myself and have a good time." I would say, "I wish I had your chances." I used — frequently advise him as to taking care of his money. I said, "You are very fortunate, and you don't know much about business." I says, "You have probably been reared differently from the balance of us." When Mr. Ralston—it was before you (alluding to Mr. Turpin) moved around on the other street—the day that Mr. Ralston became of age (Mr. Turpin was his guardian) and the day he became of age he turned the property over to him as agent for him or to manage the business for him. He wasn't guardian then, but when he became of age he turned it over to him.

Q. Had there been any settlement between them?

A. None at all that I know of. I don't remember anything as regards to what the settlement was.

Mr. ANDERSON: State*ment* — you know.

A. Yes, sir. The day that he turned over his property to Mr. Turpin I says, "Mr. Turpin has been a good manager for you; he has taken care of your property the best he knew how, and I don't think you could have got a better man." He says, "Yes; when I die I am going to *him* him some property." He never told me what property, but he says, "I am going to give him my property for his good management and taking care of it." I heard him say

273 that more than once.

Mr. RUTHERFORD: After he became of age?

A. Oh, yes. He frequently would speak to me as regards Mr. Turpin's managing his property while Mr. Turpin was guardian.

Q. You heard him say more than once that he intended to give him his property or some property?

A. Yes; I couldn't say now on oath what it was, but "some property."

Q. At the time of his death?

A. Yes, sir.

No more questions.

Cross-examination:

Mr. ANDERSON: It was during the time you were book-keeper that you had these conversations with Ralston?

A. Yes, sir.

Q. How long were you book-keeper?

A. I think about two years; I won't say positively.

Q. Were you not there longer than that?

A. I don't think I was.

Q. Were you not there in '70 or '71?

A. I can't say. You (addressing Mr. Turpin) know I left you and went to the insurance company. You told me it was a good thing and couldn't pay me any more.

Q. Mr. Ralston was a very extravagant young man?

A. I used to tell him about spending too much money.

Q. He was extravagant?

A. I suppose he was. I don't know what he did with his money.

274 Q. Didn't he draw his income every year?

A. He drew on the income. I never kept up with his account.

Q. There was no settlement?

A. None that I know of.

Q. Was there any settlement at all that you know of?

A. My position as book-keeper was only as assistant, because Mr. Ogden always attended to that himself; he drew all the checks; I, of course, looked after most of the rents and like that.

Q. I only want to get what you know. I will not ask you to state anything you do not know; so far as you know, there was no settlement had between them?

A. No, sir.

Q. As soon as he became of age he appointed him as agent to go on with the business?

A. Yes, sir.

Q. Without coming to any settlement?

A. Yes, sir; so far as I know.

Q. Mr. Turpin managed the business for him exclusively?

A. Yes, sir.

Q. Ralston had perfect confidence in him?

A. Oh, yes.

Q. Confided everything to him?

A. Yes; and always done as he directed, I think—acquiesced in what he said.

Q. Turpin had a great deal of influence over him, I suppose?

A. I think as much as a father would. I will state

275 further—I can't say positively, because I don't remember all of the transactions, but I think Jimmie remarked to me that his father couldn't have done more for him than Mr. Turpin had done.

Q. Did he seem to have the same confidence in him that he would have in a father?

A. I believe he did; he said his property was managed just as well as he would have it managed.

Q. Do you know when Mr. Ralston left here and went to New York?

A. No, sir.

Q. Your intimate acquaintance with him ceased when you stopped being book-keeper for Mr. Turpin?

A. Yes, sir; I used to meet him on the street.

Q. You don't know what his habits were about drinking after that, of your personal knowledge?

A. No, sir.

Q. Was he in the habit of using liquor to excess while you did know him?

A. I think he did get tight once or twice, to my knowledge. I never kept up with him.

Q. He was a pretty wild young fellow—ran around among women?

A. I can't say that; I won't say that of any man; I have heard it; you asked me to give my views of what I know.

Q. You are right; if you don't know it, don't say so; have you any idea of what his income was by the year?

A. I don't recollect about that particularly, but I think it
276 was somewhere in the neighborhood of twenty-five hundred or three thousand dollars.

Q. His income?

A. Oh, no, not his income.

Q. What was his income?

A. I was thinking in my mind what he drew. I don't know; he had lots of rent notes.

Q. Wasn't it fifteen or twenty thousand dollars a year?

A. I was going to say, probably between fourteen and fifteen thousand dollars. I don't know.

Q. He was a single man then?

A. It may have been as much as twenty.

Q. He was a single man then?

A. Yes, sir.

Q. You didn't know him at all after his marriage?

A. No, sir.

I believe I have no other questions.

Redirect examination:

Mr. RUTHERFORD: I will get you to state whether or not Ralston was a man who could be easily influenced or whether he was a man of his own head and had a strong will.

A. I think he was of pretty strong will, from what little connection I had with him.

Q. I will get you to state whether or not he would take his ideas or opinions from others or had them as his own.

A. He generally acted independent. While he would, of course, acquiesce and submit sometimes to the advice and influence
277 or opinions Mr. Turpin might express to him in regard to

the management of his property, he was a rather independent boy.

A. J. ORR.

J. E. JONES sworn for the defendants.

Direct examination:

Mr. RUTHERFORD: Where do you live?
A. In Macon.
Q. What is your business?
A. I am president of the Central Georgia Bank.
Q. How long have you lived here?
A. All my life.
Q. How long did you know James A. Ralston, Junior?
A. Ever since he was a little boy.
Q. Who managed this property for him here?
A. I always understood that Mr. Turpin managed it.
Q. Have you any knowledge or information as to the relationship between Mr. Turpin and Mr. Ralston, Junior, what he did for him and his efforts to keep him straight and to manage his property properly?
A. I only know from what I knew of the young man, that he wouldn't have had a dollar if it had not been for George Turpin.

(Counsel for the complainant objected to the answer of witness as being a matter of opinion and also irrelevant.)

Q. What do you say with reference to the trouble and labor that Mr. Turpin had in the management of the property—what would you say that was worth?

278 (Objected to by counsel for complainant as being irrelevant and illegal.)

A. All I can say is, I wouldn't have been bothered with him for all he was worth.

(Objected to by counsel for complainant as illegal.)

No other questions.

Cross-examination:

Mr. ANDERSON: Why is it that you wouldn't have been bothered with him for all he was worth?
A. Well, I have seen him in New York worrying Mr. Turpin, and I helped Mr. Turpin to raise money there to give to him when he was on his drunken sprees. He was head over heels in debt at the Sturdevant House. I remember on one occasion I went to my bank that I did business with there with Mr. Turpin and drew five hundred dollars, and I have seen him there on drunken sprees.
Q. Wasn't that a habitual thing with him—drinking to excess?
A. I have seen him sober, too.
Q. What was his habit?
A. His habits were bad.

Q. In that respect?
A. Yes, sir.
Q. Didn't he habitually drink to excess during all the time that you knew him?
A. I think he did, except some days he would be sober.
Q. Wasn't it a majority of the time?
A. Yes, sir.
Q. Both here and in New York?
279 A. Yes, sir.
Q. When was the last time you saw him?
A. I can't remember.
Q. Was it as far back as '80? Do you remember seeing him after 1880? Do you remember hearing anything about his having made a deed to Mr. Turpin, as trustee for his children, soon after it was done?
A. I can't say that I remember it.
Q. You can't say about what year you last saw him?
A. No, sir.
Q. About what time was it that you helped Mr. Turpin raise money for him when he was drinking in New York?
A. It was the latter part of the '70's—'78 or '79.
Q. The decade of '70 and '80?
A. Yes, sir.
Q. It was towards the latter part of that decade?
A. Yes; and I think I saw him once after that in New York, drinking.
Q. Was he drinking every time you saw him in New York?
A. I think he was. He looked to me like a man who was pretty well soaked.
Q. What sort of capacity did he have for business?
A. I don't know.
Q. Did he have any?
A. I don't know. I should think he had when he was sober. He was a smart fellow.
280 Q. Taking everything together, his condition and habits?
A. I should say that when he was sober he certainly knew what he was doing. He was a man of good sense.
Q. Take him altogether, how he lived, did he have the capacity to manage properly his business?
A. I should think he had when he was sober.
Q. I say taking him altogether.
A. When he was drinking I don't think he had capacity; when he was sober he had capacity.
Q. You say he was most of the time drinking?
A. I should say he was.
Q. Did you ever hear of his investing any money that he derived from his estate so as to increase his property?
A. No, sir.
Q. Wasn't his estate constantly diminishing?
A. That I don't know. I should suppose it was, but I don't know it.

Q. You say he was head over heels in debt in New York?

A. He was behind considerably at the Sturdevant House. I forget how much, but I am inclined to think we raised him five hundred dollars.

Q. Did you see him very often while he was in Macon before he went away?

A. Well, yes; I suppose so. I saw him on the streets.

Q. Did you have any other business transaction with him at any time except this in New York?

281 A. I never had that with him. I had that with Mr. Turpin.

Q. You never had any business transactions with Ralston himself?

A. No, sir.

Q. Didn't Turpin manage all his business for him?

A. I have always heard so.

Q. As far as your observation went, wasn't that the case?

A. Yes, sir.

Q. Didn't he think a great deal of Mr. Turpin?

A. Yes.

Q. Mr. Turpin had a great deal of personal influence over him?

A. I don't know about that. I know he expressed to me a great deal about Mr. Turpin's kindness to him.

Q. He had unbounded confidence in him?

A. I suppose so.

Q. Well, from what he stated to you?

A. Yes.

No other questions.

Redirect examination:

Mr. RUTHERFORD: When you raised this money in New York was that to pay his board at the Sturdevant House?

A. Yes; I put it to his credit myself. Mr. Turpin gave me some money; I don't know how much, but I put it to Ralston's credit at the Sturdevant House.

Q. You say he was a smart fellow?

A. Yes, sir.

282 Q. And well calculated to attend to any business while he was sober?

A. Yes, sir.

Q. Is it true that he had income enough to live on himself?

A. I don't know about that.

Q. He was not engaged in any business so far as you knew?

A. No, sir.

Q. What you meant to say is that when you saw him he was mostly drinking?

A. I have seen him sober and I have seen him drinking mostly; he was a drinking man.

Q. You do not mean to say that in the majority of instances when you saw him he was drunk, but that he was drinking?

A. Yes, sir.

Q. Is it not true that he remained sober for 12 months, without drinking at all, before he left here?

A. I couldn't say the length of time, but I knew that at times he was very sober. I have talked to him when he was sober.

Q. I think you stated that he spoke to you frequently of Mr. Turpin's kindness to him.

A. Yes, sir.

Recross-examination:

Mr. ANDERSON: How many times can you recall that you saw him after he left here and went to New York?

A. I can't say, sir. I remember meeting him on the streets of New York three or four years ago.

283 Q. Did you ever see him more than twice after he left Macon?

A. I can't say how long he was living in New York.

Q. It was about five or six years?

A. I met him once on the street in front of the Fifth Avenue Hotel, and he was very sober then, and I met him at the Sturdevant House several times.

Q. As well as you can recollect, how many times did you see him during the five or six years preceding his death?

A. Two or three times, I know.

Q. Before he left Macon you had known him to be sober at times?

A. Yes, sir.

Q. Wasn't he most of the time under the influence of liquor while you knew him?

A. No, sir; he was generally pretty sober. I think he was pretty sober when he was on the streets.

Q. I am not talking about where he was. Wasn't it the habit of his life to drink to excess?

A. That was supposed to be.

Q. As far as you knew?

A. I have seen him drunk.

Q. As far as you knew wasn't it the habit of his life to drink to excess?

A. No, sir; not all the time.

Q. The habit, I say?

A. He would sober up sometimes, and then he was very much of a gentleman, too.

Q. You know what I mean by habit. I mean what was his habit. Was he not in the habit of drinking to excess?

A. Yes; occasionally, I suppose he was.

284 Q. Wasn't it more than occasionally?

A. I don't know; I was not intimate with him enough to know.

Q. I mean as far as you saw.

A. I have seen him on the streets and spoke to him very frequently and I have seen him drunk and seen him sober.

Q. You state as a reason why you would not have managed his property for him was that he was a drinking man—drank to excess?
A. Yes, sir.
Q. Now, as far as you had occasion to observe, wasn't that the habit—not a constant thing, but the habit—of his life?
A. Well, it was the habit of his life; yes, sir.

No other questions.

J. E. JONES.

O. F. ADAMS sworn for the defendants.

Direct examination:

Mr. RUTHERFORD: What is your present business?
A. City treasurer.
Q. How long have you lived in Macon?
A. Since the winter of '47.
Q. Been here ever since?
A. Yes, sir.
Q. Did you know James A. Ralston, Junior?
A. Yes, sir.
Q. How long did you know him?
285 A. From boyhood up to the time he left here for New York.
Q. I will get you to state in general terms what efforts Mr. Turpin made to keep him straight and keep him from gambling and out of scrapes, and things of that sort; what anxiety did Mr. Turpin express on that point?
A. Mr. Turpin always expressed great anxiety.

(Counsel for complainant objected to the witness giving any of Mr. Turpin's statements.)

Q. Just go on and state it.
A. I can only say that whenever I have been in the presence of Mr. Turpin and we would get to talking about Ralston I know Mr. Turpin has often told me he did everything he could to keep him from gambling and drinking.

(Counsel for complainant objected to Mr. Turpin's statements to witness.)

Q. State in reference to gambling-houses—what was said about that?
A. I think once Mr. Jerry Bunch said that he wouldn't allow Mr. Ralston to come about his gambling table on account of Mr. Turpin's solicitation.
Mr. ANDERSON: Jerry Bunch told you that?
A. Yes, sir.

(Counsel for complainant objected to witness giving Mr. Bunch's statements.)

Mr. RUTHERFORD: Did you ever hear Mr. Ralston say anything about his feelings towards Mr. Turpin?

A. I may have, but I don't recollect now what it was. I didn't think I would be called up to say anything about it and I never impressed it on my mind.

Cross-examination:

286 Mr. ANDERSON: Did you see Mr. Ralston frequently before he went to New York to live?

A. Yes; I saw him, I suppose; I can't say how many times; sometimes I wouldn't see him for a week or two; I couldn't say how often.

Q. He was a pretty wild, dissipated young man?

A. I never saw him wild or do anything on the street that would be called wild or dissipated. He always appeared to be very gentlemanly and straight when he was sober, and I don't think I ever saw him drunk. I may have seen him when he had taken liquor. He always appeared calm.

Q. He had great confidence in Mr. Turpin?

A. Yes, sir.

Q. Confided all his business to him?

A. Yes.

Q. Was very much under Turpin's influence?

A. I think so. When I was in New York with him one time he frequently came to Turpin for money and Turpin would give it to him.

Q. Didn't he look up to Turpin as a sort of second father?

A. I think he took his advice.

Q. Did pretty much what he told him to do?

A. I don't know about that. I suppose he generally left his business with Mr. Turpin and had confidence in him.

Q. I don't mean as to his personal habits. He thought a great deal of Turpin?

A. I think he did.

Q. And would do almost anything to oblige him, wouldn't he?

287 A. I think he would. I don't know what that covers. I suppose he would. It looks reasonable that he would have done it, Mr. Turpin occupying the position to him that he did.

Q. Turpin had an unusual influence over him. Isn't that true?

A. I think Mr. Turpin had considerable influence with him.

Q. Did you see him after he left here to go to New York to live?

A. I don't know whether he returned here once or not; if he did, I saw him at that time.

Q. Did you ever see him at the North?

A. No, sir; I don't think I have been to New York since.

Q. Did you ever see him after he was married?

A. I don't know whether that was the time or not. I haven't been to New York since '70 or '71.

Q. Have you any recollection of seeing him during the last five or six years of his life?

A. I may have, but I have no recollection.

Q. Do you know of his investing any money so as to increase his estate?

A. No, sir; I do not.
Q. Did he spend money very freely on himself? Wasn't he quite an extravagant man?
A. I don't know as to that. He wasn't extravagant. I have never met him around at any place where he would treat and spend money. He never treated me in his life.
Q. Didn't he spend a great deal of money?
A. I don't think he did.

Redirect examination:

Mr. RUTHERFORD: You knew him a long time. I will get
288 you to state whether or not he was a man that was easily influenced, or whether he was independent and had a strong will of his own.
A. I think he had a very strong will of his own; if he liked anybody, trusted anybody, I think they could influence him.
Q. In what way; for his own good?
A. Yes; for his own good. I have never heard of anybody having influence over him to do anything wrong.
Q. You state that he was an independent man?
A. I think he was; I have always thought that he was very positive and emphatic about anything. I never could do nothing with him. If he liked anybody I think he would be accommodating; not to any injury to himself, though, I don't think. If he didn't like anybody he wouldn't even treat them or give them a segar or anything. He was prejudiced, like his father.

O. F. ADAMS.

H. R. BROWN sworn for the defendants.

Direct examination:

Mr. RUTHERFORD: Where are you living at now?
A. Corner of Walnut and Third streets.
Q. What is your business?
A. Not in any business now.
Q. What business have you been in?
A. Plumbing and gas-fitting.
Q. How long have you lived in Macon?
A. Twenty years in August.
289 Q. How long did you know James A. Ralston, Junior?
A. I knew him when I first came here and up to the time he moved away.
Q. What time did you come here?
A. The last day of July, 1865.
Q. Did you know his wife, Ida Ralston?
A. Yes, sir.
Q. Do you know when she first came here?
A. I think it was in '69.
Q. Where did she stop at?

(Objected to by counsel for complainant as irrelevant.)

A. At Miss Zella Ivey's.
Q. What sort of a house did she keep?

(Objected to by counsel for complainant as irrelevant and immaterial.)

A. A house of ill-fame.
Q. Did she stop at any other house in the city except that?

(Objected to by counsel for complainant as irrelevant and immaterial.)

A. She did a year or two afterwards. I think she rented a house belonging to Miss Emma Wright near the old court-house square.
Q. Did she stop at Miss Minor's?

(Objected to as irrelevant and immaterial by counsel for complainant.)

A. Yes, sir.
Q. I will get you to state whether she stopped at Addie Pearce's.
A. I think she did; I won't be positive.
Q. What kind of houses were those?
A. All the same.

(Objected to by counsel for complainant as irrelevant and immaterial.)

290 Q. State whether she was a woman of ill-fame at that time—whether any other parties had access to her.

(Objected to by counsel for complainant as irrelevant and immaterial.)

A. She had that reputation. I only know from reputation. She was generally classed as a woman of loose morals.
Q. Wasn't she receiving men at these houses like other women?

(Objected to by counsel for complainant as irrelevant and immaterial.)

A. Yes, sir; that is my impression. Where they are found in such places the impression is that that is their business.
Q. That was the nature of the business of those houses?

(Objected to by counsel for complainant as irrelevant and immaterial.)

A. So far as I know.
Q. I will get you to state the nature of your acquaintance with Mr. Ralston.
A. I knew him soon after I came here, and was very intimate with him for two years or more.
Q. Did you ever room with him?
A. Yes; we kept bachelor's hall together one winter; roomed together, slept together, and eat together.
Q. Do you remember what winter that was?
A. The winter of '68.

Q. I will get you to state what were his feelings towards Mr. Turpin.

A. Well, he used to speak of him very much in the light of a father to him; he was the only man he had to look to in his business relations and advice. I used to talk to him and try to get him to save money, and I have heard him frequently remark,
291 "What's the use of it? Turpin will get it all, anyhow." In fact he told me at one time that he had nobody else to give it to.

Q. Who did he say he intended to give his property to?

A. Mr. Turpin. He told me so as many as half a dozen times.

Q. When was that?

A. The first time I ever talked to him about it was just before he and I gave a party at his old residence on the hill, and a day or two before that we were talking about expenses and looking after the matter, and he got to talking one night—it was where Judge Simmons now lives—about what he was going to do with his property; that if he ever had any of it left—that if it lasted as long as he did he would be satisfied. He seemed to have no ambition to save any of the property, and I used to try to change his mind, without any personal motive; it was simply because I hated to see him throwing himself away and his money, although he was in a great many things very close; he was anything but liberal. I know we have sometimes employed a band to go out serenading and I generally had the biggest end of the bill to pay.

Q. He was pretty close about some things?

A. Yes. I think he was more liberal with me than with most any other young man he associated with. I know they used to get me to go to him to get him to subscribe and pay his share of the expenses in little entertainments we would have. He wasn't at all stingy about his dress; he dressed rather extravagantly. In things that he didn't care about particularly he was liberal enough. I have known him to be very liberal sometimes, and then again be very close—extremely so.

Q. I ask you the question, What time did you first hear
292 him say that he expected to leave his property to Mr. Turpin?

A. That winter we roomed together—the winter of '68. I think we commenced rooming there about the latter part of October, and remained until the next summer.

Q. How long after the winter of '68 did that intention continue with him?

A. I have heard him speak of it as late as up to '72. I had conversation with him once in New York. We met there and were together for one whole week. That was the year that Carhardt, Ross, and myself were there, and we were together a week or ten days, and I roomed with him one night at Carhardt's house and he brought up this same subject again, and I heard him speak of it again at the time he mortgaged the property on Cherry street. He alluded to it at that time.

Q. Expressed the same intention?

A. Yes; I asked him why he couldn't get along and live on his income. He said, Well, he expected to get all he could out of it as long as he lived, that he didn't believe that he would live more than 10 years, and he'd might as well spend it and enjoy it.

Q. Who did he say he was going to leave it to after his death?

A. He made the remark, "Old man Turpin would get it all."

Q. Explain what you mean by stating that he said it didn't make any difference about what he spent—Mr. Turpin would get it all; what did he mean by that, that he expected to leave to Mr. Turpin all that he didn't spend?

A. Yes, sir; he always spoke of him as the best friend he had in the world; that if he got in any trouble Mr. Turpin always helped him out of it, and if he wanted money he could always get it. I know he got money in advance of his income and got in debt.

293 I suppose he borrowed it from Mr. Turpin. I don't know anything about his accounts, except that I know he was very often behind and very often had to borrow money to pay his bills.

Q. I will get you to state, Mr. Brown, what effort Mr. Turpin made to counsel, advise him, and keep him straight?

A. He used to do it very often. I have heard him do it myself.

Q. State the nature of his advice, and what influence he tried to exercise over him.

A. I have heard him tell him a great many times that he was a damned fool to throw away his money that way. He scolded at him and advised him. I think he had some influence, but I don't think he had as much influence as some people thought. I tried that myself. He was as stubborn as a mule when you come to talk to him on anything he had his mind on.

Q. You think Mr. Turpin had some influence, but not as much as was thought?

A. Yes, sir.

Q. What efforts did Mr. Turpin make to keep him from drinking and gambling?

A. He used to talk to him the same as he would a son. I think he felt a fatherly interest in him.

Q. Did Mr. Turpin have enough influence over him to induce him to do what he said?

A. He used to do it sometimes, and sometimes he didn't. Sometimes I would try to get him to do certain things, and he would fall right into it and do it, and sometimes, again, he would not move a peg. He was very particular about his horses. I know he thought he knew more about horses than anybody else.

Q. He wouldn't take his advice about anything of that sort?

294 A. No, sir; some things he thought he knew; where he didn't know he might be influenced some.

Q. I will get you to state whether he was easily persuaded or whether he was an independent man and a man of strong will.

A. I think he was very hard to influence; I don't know that I ever met a young man that was so little influenced as he was; he was rather bigoted—if I may use the word—more so than most any

young man you will find; he thought he knew a great deal more than he did.

Q. You say he had a will of his own in everything?

A. Yes, and a very strong one.

Q. Do you know what efforts Mr. Turpin made to destroy the influence of Ida Blanchard over him?

A. That was, I suppose, a rather delicate subject with him—something he never talked with me much about; the relationship between them was of that nature that it would be hardly talked about. I have heard him speak of her, but I don't know anything about Mr. Turpin's efforts. I don't think he or anybody else would have any influence with him in that respect; that was one of his idols; I don't think Mr. Turpin or anybody else would have any influence with him on that subject; I think that was one of his idols, that he worshipped and clung to as long as he lived.

Q. What influence did she have over him while she was living here in these houses of ill-fame?

(Objected to by counsel for complainant as irrelevant and immaterial.)

A. I don't think she ever had any unless he was drunk
295 or under the influence of liquor.

Q. I will get you to state whether or not he did not follow her to New York and other places from here.

A. I can't say as to that; I know they went on about the same time repeatedly; I don't know whether they went together or whether one followed the other.

Q. Before she left Macon you stated something about his renting a house for——

(Objected to by counsel for complainant as irrelevant.)

A. Yes, sir; it is a house that was burned in the court-house square.

Q. Do you know who paid the expenses?

A. No, sir; I don't know whether she paid it or he did.

Q. They lived there together?

(Objected to by counsel for complainant.)

A. I know he rented it—at least he told me he did.

Q. He staid there with her?

(Objected to by counsel for complainant as irrelevant and immaterial.)

A. I suppose so.

Q. What did he say about her?

(Objected to by counsel for complainant as immaterial.)

A. I don't know that I ever heard him say much about her. I never heard him say anything against her or anything particularly in her favor.

Q. Did you ever hear of their having fusses and quarrels?

(Objected to by counsel for complainant as hearsay.)

Ans. Yes, sir.

Q. While they lived here in Macon?

A. Yes, sir.

Q. How long was she living here in these houses of ill-
296 fame before he married her?

(Objected to by counsel for complainant as immaterial.)

A. It must have been seven or eight years.

Cross-examination:

Mr. ANDERSON: Did you know James A. Ralston after he went to New York to live?

A. I only met him once in New York.

Q. How long was that before his death?

A. I should think it was a year and a half or two years.

Q. Was he drinking then?

A. Yes, sir.

Q. Much?

A. No, sir; not as much as he used to, because he couldn't do it—he was in that condition where very little liquor——

Q. Hadn't his health been very much impaired by drinking, then?

A. I should judge from my own observation that it had.

Q. How did he appear physically—weakened?

A. Yes, sir; and he had, I don't know whether you would call it diarrhœa or diabetes.

Q. From the effects of long-continued dissipation he was very much out of health?

A. I don't know whether it was from that. I remember when he was here he suffered a great deal from it, and he was troubled with piles that run into fistula, and he had it cut out.

Q. Wasn't he a very dissipated man all the time?

A. No, sir; I don't think he was.

297 Q. When did his dissipation commence?

A. I think it was about the same all the time. He would go for months without liquor at all.

Q. You say he was injured by drink?

A. Yes; I think any man that drinks in a spasmodic way will be injured.

Q. Wouldn't he sometimes get under the influence of liquor and stay so for a long time?

A. No, sir; I don't think he did for any great length of time—not more than a day or two at the time.

Q. That was pretty often?

A. Not very. The winter I roomed with him I don't think he was under the influence of liquor to any extent but once during the whole winter, and that was on the occasion of a fire.

Q. Towards the latter part of his residence here, didn't he frequently get under the influence of liquor?

A. I don't think he did. He would get on a frolic, and drank like the balance of the boys.

Q. Did you see much of him after you ceased to room with him?

A. Yes, sir.

Q. You did not see him but once after he went to New York to live?

A. No, sir. I think his drinking was more because he was in pain and suffering. I don't think he drank much liquor. I don't think he could.

Q. How did he appear in other respects when you saw him in New York?

A. I thought he appeared feeble and with less vivacity, and
298 he didn't talk in the same manner he used to; in other words, I thought he was losing a good deal of his sense—so he appeared. He didn't seem to be the same man at all.

Q. Impaired mentally as well as physically?

A. Yes, sir.

Q. You say he thought a good deal of Mr. Turpin?

A. Yes.

Q. Looked up to him?

A. Yes; more so than any other man.

Q. Said Turpin would get all he had?

A. Yes, sir.

Q. That he was going to enjoy it as long as he lived, and it did not make much difference whether he spent it or not?

A. Yes.

Q. He reduced his property very much?

A. Yes; very near half, I should think.

Q. He committed his business matters to Mr. Turpin, didn't he?

A. I never knew of any one else having anything to do with his business.

Q. You say he took nobody else's advice about his business?

A. I don't think he did; not to any extent.

Q. He was very much influenced by Mr. Turpin about his money matters?

A. Mr. Turpin was his guardian. It would be treating his guardian very bad to be running around to everybody else. If I had been his guardian and he had run to Mr. Turpin I should have got him to get somebody else.

299 Q. He didn't give Mr. Turpin a great deal of trouble about the management of his property?

A. I think he did.

Q. He didn't interfere with him?

A. Yes; I think he did; I think he wanted to have his own way about it. I think if Mr. Ralston had full swing there wouldn't have been any of it left.

Q. Turpin wouldn't let him have his way?

A. No, sir; not fully.

Q. He finally submitted to Turpin's management?

A. I suppose he did.

Q. Even after Turpin ceased to be his guardian?

A. I don't know that Mr. Turpin was obliged to give him more than his income.

Q. He had great confidence in Mr. Turpin and allowed him to do pretty much as he liked?

A. Yes, sir.

Q. If he differed from Turpin he, nevertheless, yielded to him?

A. Yes; if he hadn't been satisfied with Mr. Turpin's management he probably would have gotten somebody else.

Q. He did not get anybody else; therefore he was satisfied?

A. Yes; I think so.

Redirect examination:

Mr. RUTHERFORD: When you saw Mr. Ralston in New York he was in possession of 10 stores here in Macon?

300 A. I think he was. I don't know whether they were mortgaged or not; my impression is there were some claims against him.

Q. Do you remember what time it was you met him in New York?

A. I think it was the fall of '80; it was either '79 or 80. I was in New York both years; I could tell by looking at my memorandum book.

Q. You say he was suffering from diarrhœa at that time?

A. I suppose it was that. His bowels were running off. I don't think he could control it at all.

Q. While he was in bad health he had lost a good deal of his vivacity. I will get you to state whether he was perfectly rational and sensible.

A. Yes; I think he was; I don't think he was out of mind at all. I think he was rather weak-minded—that is, I think he was reduced both in mind and body every way. I was going to state that he had prolongation of the glands and he had them cut off. It was the winter after he roomed with me, and I always thought it affected his health very much. I don't think he ever recovered from it.

Q. Was he a strong-minded man naturally?

—. Yes; well, I don't know; that is a pretty broad question.

Q. You state that he had a strong will.

A. I don't think he had a very strong mind; I don't think

301 he was overburdened with brains.

Q. I will get you to state whether the character of his mind had changed any at all the time you saw him?

A. No, sir; I don't think it had.

Q. About the same kind of mind he had all the time?

A. The same old six pence.

Recross-examination:

Mr. ANDERSON: He was a man of very limited education?

A. Yes; he appeared very well in society, having been in society all his life, and strangers meeting him would hardly——

Q. Did he have much business capacity?
A. I don't think he had.
Q. Even at his best?
A. No, sir.
Q. And you think that he had been impaired considerably when you saw him in New York?
A. Yes, sir.

H. R. BROWN.

The foregoing testimony of H. R. Brown not being introduced on the hearing by the defendant the same was introduced and read by the complainant.

W. A. WYLLY sworn for the defendants.

Direct examination:

302 Mr. RUTHERFORD: How long have you lived in Macon?
A. Since '63.
Q. How long have you known James A. Ralston, Jr.?
A. I didn't know much of him. I knew him from '63 up to the time he left here.
Q. Do you know what time his wife, formerly Ida Blanchard, came to Macon?
A. I don't remember the year.
Q. Some time before he married her, though?
A. Yes, sir.
Q. Where did she stop at when she first came here?

(Objected to by counsel for complainant as immaterial and irrelevant.)

A. I don't know that I know. The first time that I knew her she was at Zella Ivey's.
Q. What sort of a house did Zella Ivey keep?

(Objected to by counsel for complainant as irrelevant and immaterial.)

A. A house of ill-fame.
Q. What do you mean by a house of ill-fame—a place where men had sexual intercourse with women?

(Objected to by counsel for complainant as irrelevant and immaterial.)

A. Yes, sir.
Q. Did she stop at any other houses of that sort while she was here?

(Objected to by counsel for complainant as irrelevant and immaterial.)

A. I think she stopped at Addie Pearce's.
Q. Another house of ill-fame?
363 (Objected to by counsel for complainant as irrelevant and immaterial.)

A. Yes, sir.
Q. Do you know what Ralston's feelings were towards Mr. Turpin?
A. They were very kind. I remember once in the presence of Havens, in this alley around here, that he remarked to Havens that what property he had at his death he was going to give him.
Q. How long was that before he went to New York?
A. Several years. I don't remember. I think it was, probably, in '70 or '71.
Q. Did you ever hear him repeat the same thing at any time—his intention to leave the property to Mr. Turpin at his death?
A. I don't know that I ever did.
Q. I will get you to state the relationship of James Ralston and Ida Blanchard while they were here in Macon; how they got on together.

(Objected to by counsel for complainant as irrelevant and immaterial.)

A. They were very often fighting. I remember one time they had a fight in his room, and created considerable excitement one morning, between 12 o'clock and day.
Q. Was she up there in his room?

(Objected to by counsel for complainant as immaterial.)

A. Yes. Another time I was called to Zella Ivey's, where they had a fight.
304 Q. I will get you to state whether on these occasions she had been drinking.

(Objected to by counsel for complainant as immaterial.)

A. Yes; both of them. It was a common thing for her to get drunk at every ball they had down there.

(Objected to by counsel for complainant as before.)

Cross-examination:

Mr. ANDERSON: Did you know James Ralston or did you see anything of him after he went to New York to live?
A. No, sir.
Q. You never saw him at all after he left here?
A. No, sir.
Q. Never saw him after his marriage?
A. No, sir.
Q. You have stated about Ida's getting drunk. Didn't Jim get drunk a great deal?
A. Yes; they would both get drunk together.
Q. Wasn't that his habit to drink to excess?
A. Yes; I think it was.
Q. Was he rather an extravagant man?
A. Yes, sir.

Q. Spent all he got hold of?
A. Yes; that was my impression. I can only tell by hearsay.
W. A. WYLIE.

The examination adjourned to to-morrow at 10 o'clock.

305 JANUARY 8TH, 1885—10 o'clock.

JAMES W. HINES sworn for defendants.

Direct examination:

Mr. RUTHERFORD: Did you know James Ralston, Jr.?
A. Yes; very well.
Q. How long had you known him?
A. Ever since he was a small boy.
Q. Where have you lived for the last 25 years?
A. Well, I have lived in Macon, except four years before the war that I lived in Maryland.
Q. State whether or not you knew him intimately.
A. I did, sir.
Q. I will get you to state what Ralston said to you with reference to his feelings towards Mr. Turpin. You can state the circumstance. What was the conversation?
A. He was rooming in the Ayres building down here and he came out and spoke to me and says, "Howdy do, Hines?" I says, "How do you do, Jimmie?" We got into a conversation together talking about matters, and I said something to him about taking care of his money, and he says to me, "I intend to do a great deal better than I have been doing, but it don't make no difference to me; I have got a good friend in George Turpin. He is a friend of mine, and if George Turpin should outlive me and I die first I intend to remember his family." He says, "I make a present to his children now every year if I am in Macon."
Q. What time did that conversation occur?
A. That occurred—I think it was some time before he went to New York. I won't be positive about the year.
306 Q. Well, about the year.
A. It was in 1876 or '77—either one of those years. I know he had a horse sick at the fair grounds at that time, and he asked me to ride down with him. I recollect the occurrence.
Q. That if Turpin outlived him he would remember him and his family?
A. Yes, sir.
Q. What did he say with reference to Turpin's treatment of him and of the management of his property?
A. He said he thought Turpin had always treated him right. He says, "He has been the best friend I ever had."
Q. How did he say Turpin had managed his property? Did he say anything with reference to Turpin's management of his property?

A. He told me he had confidence in Mr. Turpin. That is all he said to me. He said he had a great deal of confidence in Mr. Turpin; said he had been the best friend he had ever had.

Q. I will get you to state whether or not he stated that in substance to you before that time or after that time.

A. I have heard him frequently make the remark—on one occasion he said, "To-day I made a daughter of Mr. Turpin a present." I forget what it was.

Q. You say he frequently made that remark?

A. That he had made presents to Mr. Turpin's children, and he intended to give them something.

Q. At his death?

A. Yes; at his death.

307 Q. I will get you to state whether James Ralston was a man who was easily influenced or whether he was a man who was hard to influence; whether he was an independent man and had a will of his own.

A. He was pretty independent about some things. He would drink a little, but I didn't look upon him as being an habitual drunkard.

Q. What would you say of his will? Was he a man of no will or a man of strong will?

A. I think he had som- judgment about him.

Q. You still do not get my idea. My idea is whether he was a man that could be easily influenced to adopt anybody's opinion and will as his own or whether he was a man that was hard to influence and had a strong will of his own.

A. I think he had a strong will of his own. I don't think a person could get anything out of him unless he wanted to give it to them.

Q. What do you say in reference to his capacity? Was he sensible and rational; was he a man of good sense?

(Objected to by counsel for complainant as to the mode of asking the question.)

Q. I will ask you to state with reference to his mental capacity.

By the EXAMINER: What was his mental condition? Suppose you ask him that.

Mr. RUTHERFORD: What was his mental condition as to rationality?

308 A. I think he was a rational man. I have seen smarter men, but I looked upon him as a young man having good sense. I didn't look upon him as a man that was insane or anything of that kind.

I believe Mr. Hines is with you.

Cross-examination:

Mr. DESSAU: You say he was a rational man?

A. Yes; so far as I could see.

Q. What do you mean by that?

A. I mean by a rational man one that is capable of taking care of his own business.

Q. Do you know that he took care of his own business?

A. I don't know whether he did or not.

Q. You don't know anything about that?

A. I know Mr. Turpin had charge of it.

Q. Isn't it true that Mr. Turpin took care of his business for him; didn't he say so?

A. Yes.

Q. Wasn't it a recognized fact that Mr. Turpin did take care of his business for him?

A. Yes; I believe it was.

Q. You say that you understand by a rational man one that could take care of his own business; do you still say that a rational man was one that took care of his own business?

A. There is a great many men that are rational men that get other men to take charge of their business.

Q. In what regard did you consider him as a rational man?

309 A. I think, in looking over his accounts with Mr. Turpin, he would know whether they were kept correct or not.

Q. How do you know that?

A. Well, from knowing the man.

Q. What did you know about him that would make you say that?

A. I have often heard him speak about his business.

Q. To whom?

A. To me.

Q. When?

A. On several occasions.

Q. Just name one of them—the time and place.

A. I can't recollect the dates exactly, but I can recollect having talked with him.

Q. How long ago has it been?

A. A good while before he went to New York.

Q. When did he go to New York?

A. I think he went to New York in '78. I won't be positive about it.

Q. You mean when he went to New York to live?

A. I don't know whether he went there to live at that time or not.

Q. Didn't he go to New York nearly every year?

A. I believe he did.

Q. Now, with reference to what time that he went to New York did you have these conversations?

A. Well, on several occasions. It may have been before '76 or '77. I was well acquainted with him and never met him but what he would speak to me—not of his business every time.

Q. He just spoke to you as a passing acquaintance?

310 A. Yes, sir.

Q. I would like for you to fix the time and place where you had any of these conversations with him that you have referred to.

A. Well, at the time I met him in front of the Ayres building, at the foot of the steps.

Q. What time did you say that was?

A. Either in '76 or '77, as far as I can recollect; I won't be positive, but that is my opinion.

Q. That was the time you referred to when you said you had a conversation with him before he went to New York?

A. Yes, sir.

Q. When you speak with reference to his going to New York you meant his going there permanently?

A. No, sir; he went there every year; I don't know the year he went to stay.

Q. What time of the year was it you met him in front of Ayre's Hall?

A. It was in the summer, from the fact that Massenburg's fountain was running, and I recollect going in to take a glass of soda with him.

Q. You do not recollect the month?

A. No, sir; but I recollect about the occurrance.

Q. That was in the year '78?

A. That was in the year '77, I think; I won't be positive about it, but it was, to the best of my knowledge and belief.

Q. When and by whom was your attention called to that conversation since then?

311 A. Mr. Turpin asked me did I ever hear Jim Ralston make any remark, and I told him yes.

Q. When was that?

A. It has been a month or two ago.

Q. So you had no refreshing of your memory upon that matter from the time you had the conversation with him until within a month or two ago?

A. No, sir.

Q. That is what I understand you to say; that is true, isn't it?

A. I had never thought of it; I had known it all the time.

Q. I am not asking you what he asked you; I am asking you when your attention was first called to that conversation, and I understand you to say a month or two ago; and until that time your attention has never been particularly called to that conversation?

A. No, sir.

Q. You say that you frequently had conversations with Mr. Ralston?

A. Yes, sir.

Q. How often did you see him previous to his going to New York? You saw him frequently?

A. I saw him——

Q. You would see him about as frequently as you would see any other citizen with whom you had no particular business?

A. Yes.

312 Q. You never had any business transaction with him?

A. I done a little work for him.

Q. Did you ever see him under the influence of liquor?

A. I have at times; I have seen him on several occasions.
Q. But they were very few, were they not?
A. Well, probably I would sometimes see him about once a month and sometimes more often.
Q. Sometimes oftener?
A. Yes.
Q. Under the influence of liquor sometimes once a month and sometimes oftener?
A. Well, he wasn't drunk.
Q. I said under the influence of liquor—drinking.
A. Yes; drinking.
Q. You say you had some business transactions with him. What were they?
A. I did a little work for him once on a stall at the fair ground; just a small job.
Q. Who paid for that?
A. He did.
Q. That was the only business transaction you ever had with him?
A. Yes, sir.
Q. What was the amount of it?
A. Two or three dollars.
Q. Mr. Hines, you have known Mr. Turpin all your life, haven't you?
313 A. Yes, sir.
Q. You are upon friendly terms with him?
A. Yes, sir.

JAS. H. HINES.

ALEX. BLOCK sworn for defendants.

Direct examination:

Mr. RUTHERFORD: Mr. Block, how long have you known James A. Ralston?
A. I suppose about 15 or 18 years.
Q. I will get you to state what your business now is.
A. I am book-keeper and cashier at Turpin & Ogden's.
Q. How long have you been connected with the office of Turpin & Ogden?
A. Between 13 & 14 years.
Q. I will get you to state whether or not you had frequent opportunities of seeing James Ralston.
A. Yes, sir; I have. I have seen him, I think, until the time he went to New York, nearly every day for 6 or 8 years. Of course there were three or four months in the summer when he wasn't in the city. I have seen him while he was in New York, too, on two or three occasions. Do you want me to state if I saw him out of the city?
Q. Yes.
A. I saw him in the Catskill Mountains and spent about 10 days with him. That was in '81. His wife was there at the same time.

314 Q. I will get you to state whether you ever heard him speak of his feelings and relationship towards Mr. Turpin.

A. Very often. I have heard him say that if he should die before Mr. Turpin he intended to leave everything to him. That was before he married. He told me that often.

Q. Did he assign any reason for saying that?

A. He said Mr. Turpin was a great friend of his and his father and mother, and he thought a great deal of him; that he thought as much of him as his own father; that he had been the same as a father. He told me that often. I was more intimate with him than any other man in the city, because he was always around our office; in fact spent all of his time there nearly.

Q. I will get you to state whether or not, during that whole time you were there at the office and he was there so constantly, you ever heard Mr. Turpin make any suggestions to him as to the distribution of his property, either to himself or his children or any one else?

A. I never heard Mr. Turpin say anything about it at all.

Q. What did Mr. Ralston do with reference to looking after his business and accounts?

A. He got regular statements just the same as the balance of our customers did. He knew what was going on just as well as any other property-owners we have—Mrs. Damour, Mr. Gunn, and Mr. Dempsey. He got regular statements. I knew how every man's account stood.

Q. Regular statements were furnished him during that whole time?

A. Yes; as long as I have been there and that is between 13 and 14 years. It was the same way before I got there, because I could tell by the books.

315 Q. I will get you to state whether Mr. Ralston would look over the books himself.

A. He would look at the books sometimes, but it wasn't necessary, for he got statements which were perfect copies of the books. When he was in New York we would send him statements quarterly. He knew how much money he had there and how much money he owed us.

Q. I will get you to state whether he knew all the property he had and what each particular piece was rented for.

A. Yes; I think so.

Q. Not what you think.

A. I know he did. He knew what his income was, for he got statements of it. He knew exactly what it was.

Q. I will get you to state what difference there was between the management of his business and any other customer of Turpin & Ogden.

A. None at all.

Q. What difference, if any, was there in reference to the charges for attending to the business?

A. Well, Mr. Ralston was a big customer of ours and we charged him a little less than we did some of the others.

Q. You know other customers you had and how they managed their own business. I will get you to state what Mr. Ralston's habit was as to particularity and carefulness in looking after his interests that you had there in charge.

(Counsel for complainant objected to the form of the question.)

Q. What do you say with reference to his carefulness and particularity in looking after his business?

316 (Counsel for complainant again objected.)

Q. Was he more particular than others, or less particular?

A. I don't think he was any more particular than others, but he always knew what was coming to him, and wanted it. He wasn't any more particular than anybody else. I don't say he was as particular as some we had, but he was as particular as an ordinary man.

Q. What year did you say you saw him at the Catskill Mountains?

A. It was in July, '81.

Q. How long did you see him at that place?

A. I think I was there about 10 days with him, every day, and in the same house?

Q. What was his condition then?

A. His condition was as straight as any man I know of.

Q. Was he sober during that time?

A. Yes; he was perfectly sober the whole time I saw him.

Q. State whether or not he was rational.

A. Yes; I think he was; I know he was.

Q. In possession of his mental faculties?

A. Yes. He and I were constantly together every day, just as people are at these watering places.

Q. Did you see him at any time after that in New York or elsewhere?

A. I don't think I have seen him since.

Q. Did you see him in 1880 at any time?

A. I don't remember whether he was in Macon or not.

Q. You were not in New York in 1880?

A. No, sir. I don't think I saw him in '80, because he wasn't here.

317 Q. You stated what Mr. Ralston said with reference to what he would do with his property if Mr. Turpin outlived him. State how often he made that declaration and expressed the intention.

A. I couldn't say how often. It seemed that his mind was made up to that fact.

Q. Was it only once or twice, or frequently?

A. Frequently.

Cross-examination:

Mr. DESSAU: You never heard him say anything about giving any property to Mr. Turpin after his marriage?

A. Yes, sir.

Q. When?

A. That was when I was in the Catskill Mountains with him. I think he had already done it then; I know he had. I knew as much about his business as he did himself—in fact, more—and as much about it as Mr. Turpin did, if not more, because I was the one that did all the work.

Q. You say that Mr. Ralston knew about the condition of his business on account of the statements that you sent him?

A. Yes, sir.

Q. Who sent him those statements?

A. I generally sent them myself. I always made them out, and Mr. Turpin wrote the letters to him generally.

Q. The knowledge that you have that they were sent to Mr. Ralston is derived from the fact that Mr. Turpin wrote to him about them?

A. Mr. Turpin, whenever he wrote the letters, always turned them over to me and I addressed them.

Q. It was sealed?

318 A. No, sir; I did that myself generally. Mr. Turpin ain't much of an office man and he always left that to me. He wrote the letters and I generally looked over them before they were sent.

Q. You did not read them?

A. Yes; I did. I read pretty near every letter he wrote.

Q. You also examined the statements?

A. Of course I did; I made them out.

Q. I am speaking about your seeing it in the letter.

A. I put it in myself generally.

Q. You sent them to him?

A. Yes; I addressed the letter. Mr. Turpin handed the letter to me and told me to read it and generally said, "Send it off to Jim."

Q. You did that every three months?

A. Generally we did it quarterly—sometimes a little later and sometimes earlier—generally four times a year. If he would call for it before that we would give it to him.

Q. If who called for it?

A. Mr. Ralston.

Q. When he was in New York did he call for statements?

A. Always.

Q. Have you any letters in your office showing that he called for statements?

A. I suppose we have.

Q. Your only knowledge that he called for statements is by reason of the letters he wrote?

A. He didn't write his letters; he signed them generally.

Q. He was not a very good hand at writing letters, was he?

A. Well, no; I don't think he was.

319 Q. Who wrote his letters?

A. I think his wife did. He could write letters if he wanted to.

Q. You are familiar with his handwriting, and you say, from the handwriting, that they were written by his wife?

A. Yes; I think they were.

Q. What was Mr. Ralston's income?

A. When do you mean?

Q. From the first time you ever became familiar with it until the last time?

A. His income was about fifteen thousand dollars.

Q. At what time? That was the average income?

A. No; it didn't average that; it was reduced.

Q. Annually?

A. Yes; that was the gross; of course, the expenses had to come out of that.

Q. What was it the last time you had anything to do with it before his death?

A. About six thousand dollars—between six and seven.

Q. Can you give any definite information as to what the principal of Mr. Ralston's possessions were at the time you went into the office? Estimate it, to the best of your knowledge and belief. You were generally familiar with the property that he owned in the city of Macon?

A. Yes, sir.

Q. What was the estimated value of that property at the time you went into the office?

A. Property then was a good deal higher than now.

Q. How much did he have when you first went into the office as compared with what he had when he died?

320 A. I suppose he had a third less.

Q. When he died?

A. Yes, sir—no, he didn't have as much as a third less. He has got everything now that he had. He had everything he has got now—that is, at the time of his death—except this Triangular block store. He has got everything he had then.

Q. Everything he first had?

A. Yes, sir.

Q. Are there any incumbrances on it—liens, mortgages—that were not on it at first?

A. Well, there is a mortgage of twenty-five hundred dollars on these stores on Cherry street.

Q. Who is that in favor of?

A. I think it is Mr. Ross.

Q. That was originally five thousand dollars?

A. Yes; I think it was.

Q. That mortgage was not on it when you first went into the office?

A. No, sir.

Q. When was that mortgage made?

A. I can't remember the date; it was some time about '77 or '78.

Q. It was before he went to New York permanently?

A. Yes, sir.

Q. You remember when he sold the Triangular block property?

A. Yes, sir.

Q. He sold that to Col. Jack Ross?

A. I think it was to Mr. W. H. Ross; I believe it was for seventeen thousand dollars.

Q. No, it was sold to his father.

321 A. Well, I think it was seventeen thousand dollars.

Q. What were the commission- charged by Mr. Turpin for attending to this business?

A. Seven and a half per cent.

Q. On all collections?

A. Yes, sir.

Redirect examination:

Mr. RUTHERFORD: What services did the seven and a half per cent. cover?

A. We attended to all of his business, attended to the repairs and insurance and everything of the kind connected with the management of his property—taxes and renting.

Q. Collecting the rents?

A. Yes; and looking after his business generally. Mr. Ralston had nothing to do with it except to get his statements and his money, just the same as we do for others.

Q. What did Dr. Bozeman pay?

A. The same.

Q. What did you charge other customers for similar services?

A. Up to a year ago we charged Mr. D. F. Gunn, who is now a bigger property-owner than Mr. Ralston, ten per cent.—up to about two years ago—and we reduced it to seven and a half.

Q. Up to about two years ago you charged him ten per cent.?

A. Yes.

Q. Isn't he a relative of Mr. Turpin?

A. Yes; I think he is Mr. Turpin's wife's cousin. Mr. Gunn gets his statements as Mr. Ralston did; in fact, Mr. Turpin don't

322 know very much about what the accounts are because he never looks at them. Whenever they call for them I make them out.

Q. The part Mr. Turpin does is to rent out the property?

A. Yes; and maybe to look after the collections.

Q. No other property has been sold by Mr. Ralston except that Triangular block; in other words, he had at the time of his death all the property he had before except that?

A. I think he had some little lands in the country that he sold. I don't think that amounted to much; that was a piece of property he sold; he might have had a plantation. There is one other piece of property left out—that is, the mansion up here, but I don't think he was instrumental in selling that, because his wife did that. He had no right to sell that property unless she consented to it. I didn't consider that that piece of property belonged to him after he married.

Q. I will get you to state whether that was sold to pay the compromise debt of Mrs. Smith.

A. Yes; I think so, and the balance of it went to Mrs. Ralston; I reckon it did; I know part of it did, anyhow.

Recross-examination:

Mr. DESSAU: Didn't a part of the proceeds of that sale go to pay off a portion of the debt which Mr. Ralston owed to Mr. Ross on this mortgage?

A. Which mortgage?

Q. Didn't Mr. Ross have a mortgage against Mr. Ralston for five thousand dollars?

A. Yes.

323 Q. Didn't Mr. Ralston pay twenty-five hundred dollars of that out of the sale of this mansion house and lot?

A. Probably it did; that mortgage was never entered on our books, and I don't know anything about it except paying the interest on it.

Q. What did the mansion house sell for?

A. I think it was twenty thousand dollars; I believe that was what it was.

Q. How does Mr. Gunn's income from the rents of property here in Macon compare to Mr. Ralston's prior to the death of Mr. Ralston—it was not as much?

A. I don't know whether I ought to be giving Mr. Gunn's business away that way.

The EXAMINER: You will have to answer it.

A. It is very near the same up to Ralston's death.

Q. Which do you think was the greater?

A. I can't say positively.

Q. What is your best idea about it?

A. It was very near equal; perhaps Mr. Gunn's might have been a little more. I will tell you the reason Mr. Gunn's business started off small when we started, and that was the reason we charged him ten per cent., and after it grew so we reduced it.

Q. You reduced it about two years ago?

A. Yes, sir.

Q. About the time of Mr. Ralston's death?

A. Somewhere along there; it had no connection with it at all; it was suggested by Mr. Gunn himself. He said his property was growing so large we ought to reduce it, and we thought that was perfectly proper and we did it.

324 ALECK BLOCK.

SAM. BAER sworn for the defendants.

Direct examination:

Mr. RUTHERFORD: Mr. Baer, did you know James Ralston, Jr.?

A. Yes, sir.

Q. How long did you know him?

A. Ever since '65.

Q. Where have you lived since that time?

A. Right here in Macon.

Q. Did you ever hear him say anything with reference to his feelings towards Mr. Turpin?

A. Yes; I met him in '76, in New York—I went to the Centennial—at the Sturdevant House—right in front of the Sturdevant House—and we talked there for about an hour, I guess, and he told me that he thought more of Mr. Turpin than he did of his own father.

Q. Did he give any reason for it?

A. He said he had been so kind that he thought more of him than he did of his father. He didn't think his father could have done any more for him than Mr. Turpin; he had taken care of him, and whenever he wanted money he could always go there and get it.

Q. Was he sober at that time?

A. Yes; just as sober as I am.

325 Q. Did he say anything with reference to what he was going to do with his property at his death?

A. No, sir.

Q. He did not mention that?

A. No, sir.

Q. Did you know Ida Ralston, formerly Ida Blanchard? You know about the time she came to Macon?

A. Yes, sir.

Q. Where did she stop?

(Objected to by counsel for complainant as immaterial and irrelevant.)

A. I met her down here at Miss Jack Minor's.

Q. What sort of a house did Miss Jack Minor keep?

(Objected to by counsel for complainant as immaterial and irrelevant.)

A. She kept—well, I don't know what kind of a house—she kept a whore-house.

Q. Did Ida Blanchard, afterwards Ida Ralston, stop at any other house besides those?

(Objected to by counsel for complainant as immaterial and irrelevant.)

A. If I am not mistaken I met her at Zella Ivey's.

Q. What sort of a house did she keep?

(Objected to by counsel for complainant as before.)

A. The same kind.

Q. A whore-house?

A. Yes.

Q. While she was there state whether or not men had access to her like any other whore.

(Objected to by counsel for complainant as immaterial and irrelevant.)

Q. I am not asking you who.

326 A. I can't tell you. I met her there with a lot of other women. I disremember now what date it was, but we all came from New York together; there was Ida Blanchard, Jim Ralston, Kate Palmer, Addie Pearce, myself, and two or three other girls. We all came out together on one steamer. I can't remember what year it was.

Q. When she came to Macon she went to one of these houses?

(Objected to by counsel for complainant as before.)

A. Yes, sir.

Q. Addie Pearce was along; what was her profession?

A. She kept a whore-house. She had so much to attend to herself—her and Ida Blanchard—so she turned two girls over to me to take care of.

Cross-examination:

Mr. ANDERSON: Were you at all intimate with Jim Ralston about that time and see him very frequently?

A. I used to be with him here occasionally; you know how it is when you meet in New York that way.

Q. After you got to Macon did you see much of him?

A. No, sir.

Q. Did you have much opportunity of seeing what his habits were as to drinking liquor?

A. No, sir; I did not; in fact, I didn't pay much attention to him here. I seen him here after that occasionally.

327 Q. I just wanted to find out whether you had any opportunity of observing his habits in that respect.

A. No, sir.

SAMUEL BAER.

Since giving my testimony I now remember that the girl I thought was Ida Blanchard that came from New York with me was Nettie Train.

SAMUEL BAER.

Dr. W. F. HOLT sworn for the defendant.

Direct examination:

Mr. RUTHERFORD: Did you know James Ralston, Jr.?

A. Yes, sir.

Q. What is your profession?

A. Practicing medicine.

Q. How long have you been practicing medicine?

A. This is the twenty-eighth year.

Q. In what place?

A. Macon, sir.

Q. How long did you know Ralston?

A. Since his boyhood.

Q. Did you know Ida Blanchard, who afterwards married Ralston?

A. Yes, sir.

Q. I will get you to state if on any occasion you were called to see him. And, if so, at what place and when?

328 A. I cannot give you the dates.

Q. Was it before he went to New York?

A. Yes, sir.

Q. Before his marriage?

A. Yes, sir.

Q. How many years, to the best of your recollection?

A. Three or four years.

Q. Where was he when you were called to see him?

A. At Jack Minor's, at the foot of Cherry street.

Q. Do you know what sort of a house she kept?

(Objected to by counsel for complainant as irrelevant and immaterial.)

A. Well, I was told that it was a house of ill-fame, sir.

Q. Did you find him there?

A. Yes; he was there at the time.

Q. Who was in the room with him?

A. This Miss Ida Blanchard was there.

Q. How often did you go to see him?

A. I suppose my attendance covered the space of two weeks. I operated upon him for fistula.

Q. Did he remain there for the space of two weeks?

A. Yes; at least two weeks, I should think.

Q. Did you find Ida Blanchard there whenever you went there?

A. Yes; she was nursing him—taking care of him.

Q. What sort of control did she have over him?

A. She seemed to have good control over him.

(Objected to by counsel for complainant, as the witness must state the facts.)

Q. State a little more explicitly, so we can understand. In
329 the first place, I will ask you what sort of a man Jim Ralston was. Was he a man easily influenced or a man that had a will of his own?

A. He was a man of very irascible temperament.

Q. What would you say of his being easily influenced or of having a stubborn will?

A. It depends on the condition he was in. If he was drinking sometimes he was very stubborn, but she had more influence over him than any one else; could control better when he was drinking particularly.

Cross-examination:

Mr. ANDERSON: Was that the only time you were ever thrown in contact with him?

A. No, sir.

Q. Did you have occasion to see him quite often?
A. Frequently.
Q. Under what circumstances?
A. When he was on a spree I treated him.
Q. What was his habit in that respect—did he drink very freely?
A. At times I think he did.
Q. Didn't he quite often get too much under the influence of liquor?
A. Yes.
Q. He was what you would call a dissipated man?
A. Yes; I would call him a dissipated man.
Q. That was some two or three years before he went to New York to live?
A. I think so, but I won't be positive.
Q. Do you know anything about his business capacity?
A. I do not, sir.
330 Q. Was he not a man who led a wild and extravagant life, giving no attention to business, or very little?
A. I know nothing about his business habits at all. He would get on these frolics.

Redirect examination:

Mr. RUTHERFORD: I will get you to state whether or not it is true that he would have a spree like most young men who are in the habit of drinking, and at other times he was perfectly sober, rational, and sensible.
A. O, yes.

Recross-examination:

Mr. ANDERSON: You knew Mr. Turpin at that time?
A. Certainly, sir.
Q. He was acting as Mr. Ralston's business agent, was he not?
A. I so heard.
Q. Mr. Turpin was a man in good circumstances?
A. As far as I know, sir.
Q. He had a large dwelling-house, did he not?
A. Yes.
Q. Who paid your bills—Mr. Turpin or Mr. Ralston?
A. I sent the bills to Mr. Ralston, and he would endorse them and Mr. Turpin would pay them.

WM. F. HOLT.

The examination was adjourned.

JANUARY 17TH, 1885.

Examination resumed.

R. W. CUBBEDYE sworn for complainant.

Direct examination:

331 Mr. LANIER: What is your business avocation?

A. Broker and real estate agent.

Q. How long have you been engaged in the real estate business?

A. About five years.

Q. Are you acquainted with the property that was rented by Turpin & Ogden for Mr. Ralston?

Q. There was so much of it I don't know exactly what pieces are referred to.

Q. Well, there are some stores on Third street?

A. Yes; I am acquainted with that.

Q. Are you acquainted with the real estate business of the city of Macon by reason of your avocation?

A. Yes; I think I am.

Q. What was it worth to have taken charge of such property as the Ralston property for a series of years, pay insurance and keep up repairs on it?

(Objected to by counsel for defendant as irrelevant.)

Q. What is your opinion about it? What would be a full compensation for such service?

A. There are different classes of property.

Q. Take it altogether or separately or take the mean result, as you like.

A. Well, sir, if I understand the property correctly, take the mean result, I would say it is worth seven and a half per cent.

Q. Is that full compensation or not?

A. Yes, I think—if it is the property I think it is I think that would be reasonable compensation—nothing more than reasonable. Colonel, you are asking me a question about property that I don't know exactly what you refer to. Is there any negroe property?

332 Q. No.

A. I should say seven and a half per cent. would be a reasonable compensation.

Q. Assuming that there is no negroe property?

A. Yes, sir.

Mr. DESSAU: I would put the question this way: That this property mainly consisted of store-houses in the business part of the city and one dwelling situated on the hill.

Mr. LANIER: Renting it for a series of years?

A. Taking charge of it, renting it, and paying insurance.

Mr. BACON: Do you include in that taking care of it, renting it, and insuring it?

A. Yes.

Cross-examination:

Mr. RUTHERFORD: You have spoken of the property generally. I will get you to state what would be a reasonable compensation for the superintendence and renting of a theatre such as Ralston Hall, making contracts for companies, providing all the necessary work in reference to lights and collecting the money, keeping companies from getting away from town without paying the hall rent, taking into consideration the different kind of companies that come—some are prosperous and some about breaking down—what would you say would be a reasonable per cent. for attending to property of that kind?

A. I have never had experience of that kind, and cannot answer the question.

Q. Wouldn't it be worth more than collecting rents for stores, where the parties lived in town?

A. I presume so.

333 Redirect examination:

Mr. LANIER: What would you take that property we have been talking about—would you be willing to take it for seven and a half per cent.?

A. Yes; I would take it for seven and a half per cent.

Q. Would you be glad to do it?

A. I would take it for seven and a half per cent. I would consider that taking care of such property as Ralston Hall would be worth more, but I have no experience in it at all.

Mr. DESSAU: Suppose, as in this case, that there was a large number of stores, say 10 or 12, certainly 10, possibly 12, in the business part of the city, would you not be willing in that event if you had charge of all that property to take charge of the whole at the same figures?

(Objected to by counsel for defendants as incompetent for a witness to say what he would be willing to do.)

A. I have answered that as well as I can. I don't know what I would do, because I have had no experience in that class of property—that is, theatre property.

R. W. CUBBEDYE.

ELLIOTT ESTES sworn for the complainant.

Direct examination:

Mr. ANDERSON: You have heard the questions put to Mr. Cubbedye just now with reference to this property?

A. I heard some, sir.

Q. Well, this lot of stores and this house upon the hill, have
334 you any idea of what that property was worth to rent it out from year to year by a real estate agent, taking charge of it,

paying insurance, making contracts for rents, collecting, paying taxes, and keeping in repair?

A. Ten years ago I would suppose it would be worth more than it is now.

Q. From ten years up?

A. About seven and a half per cent.

Q. That would be a fair price, would it?

A. Yes; at the present time.

Cross-examined:

Mr. RUTHERFORD: How much would it have been worth about ten years ago?

A. I really don't know. I was not here. From what I can learn there was no firm here except Turpin & Ogden.

Mr. LANIER: That was for want of competition?

A. In a measure.

Mr. RUTHERFORD: What additional per cent. would you say it would be worth some years—ten or fifteen years—back, without competition, collecting rents, looking after it thoroughly? There was no owner to assist in it?

A. That would only be from hearsay.

Q. You have answered generally with reference to property such as stores and a dwelling-house. Now, what would you say with reference to a theatre, renting it to travelling companies, some of whom were bad and needed watching, making contracts with them, keeping the hall in repair, keeping a man up at night to get the money, and everything of that sort—what would be a fair price for attending to property of that sort?

335 A. I will have to answer that question like Mr. Cubbedye, I have had no experience. I would say that ought to be classed with the other property.

ELLIOTT ESTES.

HAYNE ELLIS sworn for the complainant.

Direct examination:

Mr. LANIER: Where do you reside?

A. In Macon.

Q. How long have you lived here?

A. 15 years.

Q. Did you know James Ralston, Jr.?

A. Yes.

Q. You have known him all that period?

A. I knew him for several years.

Q. Where did you know him?

A. In Macon.

Q. Did you have much opportunity of seeing him?

A. Well, I was quite intimate with him.

Q. There was a family relationship between you?

A. There was a family connection.

Q. What was that?
A. He was my wife's nephew.
Q. Did you know Mr. George Turpin during that period?
A. Yes.
Q. What were the relations between Mr. George Turpin and James A. Ralston during all that period, as far as you know?
A. They were very close.
336 Q. State any facts with reference to that. What relations were there of a business nature?
A. Mr. Turpin always seemed to be his agent, overseer, manager, and everything else, from what I could see.
Q. State whether or not he had any control over him, and what that was, as far as you know, and state your opportunities for knowing.
A. Mr. Ralston always looked to him for advice—looked upon him as a father.
Q. Do you know of Mr. Ralston being in the habit of transacting any business to amount to anything?
A. No; no occasion for him to do it.
Q. Who transacted his business for him?
A. I don't know.
Q. You have just now spoken of Mr. Turpin.
A. Mr. Turpin was his agent. I don't know who attended to his business. I suppose Mr. Turpin did.

Mr. RUTHERFORD: We have no — questions for Mr. Ellis.

HAYNE ELLIS.

Signed by examiner, witness having died after taking testimony and before signing.

E. F. BEST, *Ex'r.*

Mrs. HAYNE ELLIS sworn for the complainant.

Direct examination by Mr. LANIER:

Q. You are the wife of the witness who has just testified?
A. Yes, sir; I am.
Q. Did you know James A. Ralston?
A. I have known him ever since I was born.
337 Q. Was he older than you?
A. Yes.
Q. Did you ever know him to do any business of his own?
A. Never.
Q. State whether or not you were intimate with him or whether you had opportunities of knowing whether he transacted business.
A. I guess I had as good an opportunity of finding out as anybody. I have never heard of his doing any in my life, not even taking care of his clothes, and things of that kind.
Q. Do you know Mr. Turpin?
A. Yes.
Q. Do you know who attended to Ralston's business?

A. I know he (Turpin) attended to it.

Q. Do you know anything about his confidence in him or Turpin's influence over him? Who did James A. Ralston trust to attend to his matters?

A. I don't think he really trusted anybody in the world, but I think he had a little more confidence in Mr. Turpin than anybody else. I don't think he had full trust in anybody; it might have been because he was drinking so much.

Q. Did he drink a great deal?

A. Yes, sir.

Q. Was he capable of managing business as well as other people?

A. I don't think anybody in this room would have allowed him to attend to their business for them. I don't think they would have considered him capable of attending to any at all.

338 Q. Was he your nephew?

A. Yes, sir.

Q. Who did he live with; what I want to know is whether you lived with him?

A. Yes, sir.

Q. How long?

A. He lived with me from about the first of December, over at our old house, and then at the latter part of December he moved with me. During all that time he was not there every day or every night; he was there more of them, and some of the time he was not there.

Q. You lived in Macon all the time?

A. Yes; I was in the house all the time.

Q. Where did he live until he went to New York?

A. He lived in Macon; part of the time he was down-town and part of the time he was at home with me; in October he moved back to his room.

Q. Still in Macon?

A. Yes; he staid in Macon, and his things were moved back to his room.

MRS. HAYNE ELLIS.

M. R. FREEMAN sworn for the complainant.

Direct examination:

Mr. DESSAU: You are acquainted with the property known as the Ralston property, including these stores on Cherry street, and this property up on the hill and the stores on Third street?

339 A. Do you mean the Ralston block?

Q. Yes.

A. Yes; I know it.

(Mr. BACON to Mr. Dessau: You mean all the Ralston property? Mr. DESSAU: Yes; all that is disclosed in the record.)

Q. You have had some experience in renting and taking care of real estate here in Macon?

A. Yes, sir.
Q. What was that property worth?

(Mr. BACON: You understand us as objecting to all this testimony about the valuation of the property.)

Q. What was that worth ten years back—what would it be worth to rent out that property, insure it, pay the taxes on it, collect the rents, attend to such repairs as were necessary, and take general charge of it—property that was bringing in an annual rental of from ten to fifteen thousand dollars?
A. Well, that would depend a good deal upon circumstances. I do not know that I am competent to deliver an opinion as an expert. I have had very little experience in real estate; what little I had I can give that.
Q. Well, sir, what would you undertake it for?

(Counsel for defendants objected to form as well as to the matter of the question.)

Q. I will put the first question as to what it was worth?
A. I hardly know how to answer that question; it would depend upon circumstances.
Q. Well, sir, give us your judgment as to what it would be worth.
340 A. Well, I am not familiar with the rates of real estate charges. I can only state what I charged in a little piece of property I held for Mr. Weed once. I charged him seven and a half per cent.
Q. Now, considering the magnitude of this property and the amount of rents coming in, would it be worth a greater or less per cent.?
A. You mean property bringing in a bigger amount of revenue?
Q. Certainly. I mean property that brought in from ten to fifteen thousand dollars a year.
A. I would be willing to reduce the percentage on the property as a larger amount of revenue came in.

(Counsel for defendant- objected to what the witness would be willing to do.)

Q. Now, where the property was rented to a class of people who were merchants, who would give notes, payable in bank, and those notes were paid in bank, wouldn't the percentage be less than where you made personal visits to collect the rent?

(Objected to by counsel for defendants, there being no evidence that notes were given, payable in bank.)

Q. Wouldn't it be worth less?
A. As I said before, it depends on the parties. Real estate men have a regular schedule. I can only tell you what I would do.
Q. What would you do?
A. What is the income from the property?

Q. From ten to fifteen thousand dollars a year, rented to merchants, mostly; all store-houses except this house on the hill, a dwelling-house.

341 A. I should think five per cent. would be good compensation. Now, I am basing my opinion upon my schedule of prices for collecting monies, which is different from renting.

Q. This includes the payment of taxes, making repairs, making contracts for rent?

A. Yes.

Q. In connection with this property was — a hall known as Ralston Hall, and Mr. Turpin took charge of this, rented it out to such companies as came along and collected the rent? Would you still be willing to take charge of the hall, together with the other property, at the same per cent., or would you have increased the per cent. so far as the hall was concerned?

A. That depends upon the responsibility that devolved upon me as to the revenue.

Q. You are simply to rent it if you can.

A. If I were to become responsible for the rent of the hall I certainly would not do it for anything like that.

Q. I am not talking about your becoming responsible for the rent. I am talking about your renting it if you could, just like any other sort of property, the only thing being that you would have to rent to people sometimes that you did not know anything about.

A. If there was no responsibility attached to it, I don't know that there would be any difference.

Cross-examined:

342 Mr. RUTHERFORD: What business are you in?

A. In a collecting agency.

Q. You have never been in the real estate business?

A. No, sir.

Q. Is it not true that a person who devotes his entire time to the business is accustomed to charge more than a man who has an isolated piece of property to look after?

A. I presume so.

Q. You have stated that you do not know what the rates are; that you are answering merely as to what you would do. Is it not true that the question as to what it is worth to attend to the property is one dependent entirely upon what men in this business charge for that service in this city?

A. I should think so. If the property is in the hands of a real estate man it would be governed by the usual charges of real estate men in Macon.

Q. Is it not true that, some time back, charges for attending to property, renting it and collecting the rents, repairing and superintending repairs, insuring it, and things of that sort were higher than it is now?

A. From the little experience I had in real estate it doesn't go back further than '81.

Q. In reference to that Ralston Hall property, where you have to make contracts, not by the year as in the case of a store, but where you make various contracts—three, four, five, or six during the week—with companies of various kinds—some good and some bad, most of whom have to be watched—where you have to stay up until the show is over, at times, in order to collect the rent, provide for a janitor in the hall, keep the hall in repair, provide for lights in the hall, and put a man there to sell tickets and to watch each
343 particular show, what would be a reasonable per cent. for collecting rents of that sort with that service to be performed; you say you have got to make contracts and keep advised of your contracts so as to keep two shows from clashing together, selecting the proper ones, and the responsibility is on you?

A. As I said before, if I had to look after all those matters it would take a pretty heavy per cent.

Q. Would it not be worth more than twenty-five per cent. for that particular property?

A. Yes—that is, twenty-five per cent. of the net revenue.

By Mr. LANIER: Have you had any experience in that sort of business?

A. No, sir; I am only speaking from the general idea of what I would be required to do. I have never had any experience in that line at all.

Mr. DESSAU: I will call your attention to the fact that this hall was a part of this large volume of property, and ask you the question, If you would not be willing, with even what Mr. Rutherford has detailed to you, to take that with the other at the same figures?

A. I don't think I would.

Q. What would be the difference?

A. If I was a man in that business and dependent on it I might make a difference; but I should certainly make a difference in that particular piece of property.

Q. What would you be willing to do it for?

A. I don't think twenty-five per cent. on the net income of that property would be too much.

Q. Taken in connection with the other business?

A. Yes; twenty or twenty-five. Twenty-five I don't think is too much. Property of that kind that pays an investment of
344 ten per cent. is considered as paying very well, and the average percentage of parties playing in a business of that kind is from 30 to 40 per cent. It takes from twenty-five to thirty per cent. to pay expenses. Another reason: I would be compelled to attend in person and be there at night. You ask the direct question. I did not contemplate all that service, keeping accounts, &c. When I said that if there was no responsibility I meant if anybody came and I made a contract with them that that was the end of it, just the same as I would for a store; that after a written obligation my work stopped. In some property if you get a good class of tenants the trouble is very light.

Mr. RUTHERFORD: I will get you to state if there is any more competent judge of real estate in Macon than Mr. Turpin.

(Objected to.)

A. I have always considered him a very competent man in such matters.

MATT. R. FREEMAN.

W. P. PALMER sworn for the complainant.

Direct examination by Mr. DESSAU:

Q. You knew Mr. James Ralston in his lifetime?
A. Yes, sir.
Q. You were acquainted with Mr. George B. Turpin?
A. Yes, sir.
Q. How long had you known Mr. Ralston?
A. I suppose about eighteen or nineteen years.
Q. How long have you known Mr. Turpin?
A. About the same time.
Q. Did you see a great deal of Mr. Ralston in his lifetime?
345 A. Yes, sir.
Q. Whereabouts?
A. Here and at the springs.
Q. When he was here how often did you see him, do you suppose?
A. Well, I saw him frequently—almost every day.
Q. Would you be willing to state if you were intimate with him?
A. Well, I suppose—yes.
Q. Were you well acquainted with his habits?
A. Yes; pretty well.
Q. What was Mr. Ralston's capacity for business, Mr. Palmer?
A. I do not know; I do not think that he ever attended to any business.
Q. He did have a good deal of business. Who attended to it?
A. Yes, sir. I think Mr. Turpin attended to his business.
Q. What business did Mr. Turpin attend to for him?
A. He had his property in charge and attended to his rents, and I think he had the general management of all his business.
Q. Do you know whether or not Mr. Ralston paid any attention to that business while it was in Mr. Turpin's charge?
A. I do not know; I suppose he did.
Q. To what extent?
A. Well, I don't know to what extent; I suppose he gave it the same attention that any other man would give his business.
Q. Do you know anything of the relation between Mr. Turpin and Mr. Ralston, arising out of their business? Were they friendly or not?
A. Oh, yes; I think so.
Q. How far did that relation of friendship extend, what influence grew out of it, what control did Mr. Turpin have over Ralston?

346 A. I do not know that I understand you.

Q. I want to know if Mr. Turpin, by reason of his business relations with Mr. Ralston and the management of his affairs—whether or not Mr. Turpin had any control such as a business agent would have over a man on that account?

A. Yes, sir; I think so.

Q. Did you ever hear Mr. Ralston speak in reference to that relationship—that is, how he felt towards Mr. Turpin?

A. He was always very friendly towards Mr. Turpin so far as I know.

Q. Was he more friendly toward Mr. Turpin than toward any other man you knew of?

A. Well, yes; I suppose he was.

Q. What was Mr. Ralston's habit with regard to sobriety or drinking?

A. Well, he drank a good deal.

Q. Do you know whether he drank to that extent which would infacilitate him from attention to his business?

A. I think he would; he would often get on these protracted sprees, which would last for some time.

Q. Do you remember when Mr. Ralston left here to go to New York?

A. I remember about the time, but I don't remember what year it was; I suppose it has been five or six years ago.

Q. Well, before he went to New York, where did Mr. Turpin have his place of business?

A. I don't know whether it was at the place he now occupies or on Mulberry street.

Q. Did you see anything of Mr. Ralston here since Mr.
347 Turpin has had his place of business where it is now?

A. Yes; yes, sir; I remember now.

Q. Your place of business was very close?

A. Yes; I had an office in the same building.

Q. You were frequently in Mr. Turpin's office?

A. Yes, sir.

Q. Saw Mr. Turpin there most every day?

A. Saw him frequently there.

Q. Did you see Mr. Ralston after he went to New York?

A. Yes, sir; I remember—I think once or twice.

Q. Did you ever see Mr. Turpin with him there?

A. Yes, sir; I have seen him, too, I think; I am not sure about that, but I think I have.

Q. Do you remember the time Mr. Ralston was said to have made some deeds to Mr. Turpin?

A. Yes, sir.

Q. Where were you when you first heard about that?

A. I think I was in the office around on Third street.

Q. Who told you about that?

A. I do not remember; I know Mr. Turpin told me himself.

Q. Where was it Mr. Turpin told you?

A. I was in the front part of his office. I don't know he was the first one who told me.

Q. Mr. Turpin did speak to you about it?

A. Yes, sir.

Q. He broached the subject first?

A. I cannot remember.

Q. Do you remember having a conversation?

A. Well, yes.

Q. State that.

348 A. I remember that Mr. Turpin had some papers in his hand. I walked into the office and I think I asked him what it was. Anyway he said he had just fixed up the deed to that property; that Jim had made a will and given him a portion of his property, and he said that he could tear up his will now, that he had the deed to his property—had them all safe, I believe.

Q. Did he say he had them all safe or had him all safe?

A. Said he had it all safe—had it secured or safe, or something of that kind.

Q. When he made this expression, that he could tear up his will, who did he refer to?

A. Jim Ralston.

Q. I would like for you now to repeat that.

A. He says, in speaking of having these deeds, "He can tear up his wills." I think he talked about this thing once or twice before, and Jim had on one or two occasions made wills to Turpin and had willed him property, but had probably torn them up, so he said he had the deeds to the property now, and that he had it all safe.

By Mr. LANIER: What is that last answer?

A. He had it all secure or safe, or something of that kind.

By Mr. DESSAU: Did you ever hear Mr. Turpin say anything further about it after that?

A. I do not know that I did, particularly—nothing that I paid any particular attention to.

Q. Do you remember about the time Mr. Ralston died?

A. Yes; I remember the time he died.

Q. Where was Mr. Turpin then?

A. He was here in Macon.

Q. Was Mr. Turpin apprised of the illness of Mr. Ralston from anything you heard Mr. Turpin say? Did Mr. Turpin

349 know he was sick from anything you heard Mr. Turpin say?

A. I do not, that I remember. I was going to say I thought Mr. Turpin probably did say something to me about his illness, but whether he was aware of his being so seriously ill I do not remember.

Q. How did you first ascertain that Mr. Ralston died?

A. I think Mr. Turpin told me so.

Q. Do you remember when Mr. Ralston's remains came home?

A. I do.

Q. Where was Mr. Turpin when they came home?

A. He was here.
Q. Who brought them here?
A. I think his widow brought them. I know I went down to the depot to meet the remains myself.
Q. I understood you to say you saw Mr. Ralston while you were in New York?
A. Yes, sir; I did.
Q. Any time shortly before his death?
A. I do not remember how long before; I think, probably, it must have been a year before—about that time. It might have been two; I cannot be sure about it.
Q. Where was he living?
A. He was living on 59th street.
Q. He had not moved to Connecticut?
A. I think he had lived in Connecticut before that.
Q. He was married then?
A. Yes, sir.
Q. You say that he had lived in Connecticut?
A. I think so. I know he lived in this place they called
350 Wendymere Place. I believe it was Keene's building.
Q. You said, Mr. Palmer, that Mr. Turpin had some deeds in his hand and remarked that he had deeds to that property or deeds to the property; did he say what property it was?
A. I do not know that he did; I cannot say.
Q. Had he, from anything else he ever told you, indicated what property that was?
A. Yes; I know what that was, I am pretty sure. I don't know that he told me, but I know what property it was.
Q. How did you know it?
A. I either heard it from him or some one else.
Q. What property was it?
A. It was the stores on Cherry street, Hoff's corner, and grocery store.
Q. Did it refer to any on Third street?
A. No; I think not. I mean the Ralston Hall property.

The witness is with you.

Cross-examination by Mr. RUTHERFORD:

Q. You said that Mr. Ralston would frequently get upon sprees; did you mean to say that when he was on these sprees he was incapacitated to manage property?
A. Well, I don't know that he would be himself incapacitated from anything, except when drinking.
Q. You mean while he was on a spree?
A. Why, certainly.
Q. You have seen him sober?
A. Yes.
Q. You do not mean to say that while he was sober if there was any necessity for it he couldn't manage property?
A. No, sir.

351 Q. It was only while he was on these drunken sprees that he was incapacitated to manage property?
A. Yes, sir.
Q. While sober he could manage property?
A. Yes, sir.

By Mr. DESSAU:

Q. You say when he was not drinking you think he could manage business; did you ever see him attend to any business?
A. No, sir.
Q. Did you ever know him to manage any business?
A. No, sir.
Q. He was here, where his property was situated?
A. He never took any active part in any business.
Q. Did he ever superintend the renting or attempt to attend to this property in any way?
A. I never knew of it.
Q. Did you ever see him do any other business?
A. No, sir; I never did. There was no occasion for it, I don't suppose.
By Mr. RUTHERFORD: Have you known Mr. Jim Ralston to remain sober for twelve months at a time?
A. Yes, sir.
By Mr. DESSAU: Where at?
A. Here; this has been ten or twelve years ago. I don't know but what it has been longer than that.
Q. It has not been since '77, has it?
A. No; I think not. I am not certain of it.

W. D. PALMER.

The examination was adjourned until 10 o'clock Wednesday morning.

352 WEDNESDAY, *January 28th*, 1885.

Present: Messrs. Anderson and Dessau, counsel for complainant; Bacon & Rutherford, counsel for defendant-.

Mr. PALMER, recalled, sworn for complainant:

By Mr. DESSAU: When you were here before there was a question that I intended to ask you about. That was as to your knowledge of the influence that Mr. Turpin had over Mr. Ralston by reason of the business and confidential relations that existed between them. Will you state what your knowledge upon that point is?
A. I simply stated that he had a great deal of influence with Mr. Ralston.
Q. When you say a great deal of influence over him what do you mean by it; do you mean to say whether or not he had more than anybody else?
A. Yes; I think he had more than any other person.

Q. Mr. Palmer, to what extent did that influence reach in matters of business?

A. I do not know anything about that.

Q. Do you know whether or not their relations were very intimate?

A. I think they were.

Q. More intimate than—in other words, Mr. Ralston was more intimate with Mr. Turpin than any other person, as far as you know?

A. I think he was.

Cross-examination by Mr. RUTHERFORD:

Q. What do you mean by influence?

A. Well, I think that Mr. Ralston was apt to pay more attention to what Mr. Turpin would tell him—his advice and so on.

353 Q. Apt to pay more attention to his advice?

A. Yes, sir.

Q. You stated as a fact that Mr. Turpin had a great deal of influence over Mr. Ralston?

A. I say I think he had.

Q. You do not know it?

A. No, sir; I have no means of knowing it.

Q. Can you state any particular case, any particular time or circumstance, when you were present at the time Mr. Turpin exercised any influence over him? If so, state when it was, what was said, and what sort of influence.

A. I don't know that I can. I don't remember.

Q. All you say about it is just what you think?

A. Just in a general way.

Q. You cannot state any time, circumstance, place, or action or what he said when he exercised any influence over him?

A. No.

Q. The substance of what you say is that in the matter of relationship, Mr. Turpin attending to his business, you think Mr. Ralston would pay attention to any advice he might give him?

A. Yes, sir.

No further questions.

Redirect examination by Mr. ANDERSON:

Q. Mr. Palmer, have you ever heard young Mr. Jim Ralston speak of Mr. Turpin?

A. Yes, sir.

Q. What he thought of him?

A. Yes.

354 Q. What were his expressions in regard to him?

A. He was always very friendly with Mr. Turpin.

Q. Did you ever hear him say anything about how he felt towards Mr. Turpin—what confidence he had in him?

A. He never questioned anything Mr. Turpin ever did. He always had full confidence in everything Mr. Turpin did.

Q. Have you seen them friendly together?

A. Yes, sir.

Q. Did he ever give expression to his confidence in Mr. Turpin in your presence?

A. Yes, sir.

Q. To what extent did he express his confidence in him?

A. You say to what extent?

Q. I mean just give me an idea whether he spoke of him as one of his very best friends.

A. Yes; he always spoke of him as his best friend.

Q. In your observation of his intercourse with Mr. Turpin he never *never* questioned anything Turpin did?

A. Yes, sir.

Q. When you say you have no means of knowing the influence which Turpin had over him you mean—what do you mean?

A. I do not know to what extent his influence went.

Q. You mean you are expressing an opinion from what you heard him say and what you said?

A. Yes, sir.

By Mr. RUTHERFORD: When you say he never questioned anything that Mr. Turpin did you mean that that is simply your opinion—what you think about it?

A. That is it exactly.

355 Q. You were not with him all the time?

A. No, sir.

Q. You do not know all the transactions that occurred between them?

A. No, sir; what I want to convey is that he had implicit confidence in everything Mr. Turpin did.

Q. What you mean to say is that, so far as you know, you have never heard him question anything Mr. Turpin did?

A. No, sir.

Q. That is as far as you can state?

A. Yes, sir.

Q. Did you ever know any particular thing that James Ralston wanted to do himself that Mr. Turpin opposed and which Mr. Ralston was prevailed upon to do by reason of Mr. Turpin's opposition?

A. No, sir; I don't think I do.

Q. You don't know any particular circumstance where James Ralston gave up his own will and deferred to the will of Mr. Turpin? If so, state when it was.

A. I don't know anything.

W. D. PALMER.

WARREN JOHNS sworn for complainant:

By Mr. DESSAU: Did you know Mr. James Ralston, Jr., in his lifetime?

A. Yes, sir.

Q. What was your business, Mr. Johns, while he was here; did you keep a bar-room?

A. I was keeping bar for Mr. Kennedy most of the time.
356 Q. What time was that?
A. In '71 or '76.
Q. Did Mr. Ralston drink at your bar?
A. Very seldom; that was in the Brown House. He seldom got in that part of town.
Q. Did he ever make any bills at your bar?
A. Why, he ran up some few bills?
Q. Who paid these bills?
A. Mr. Turpin paid them. They were O K, certified by Mr. Ralston. The bills had to be given to Mr. Ralston for approval.
Q. How do you know that?
A. I went to Mr. Turpin once with a bill, and he told me he couldn't settle it without Mr. Ralston signed it to show that he owed it. I carried it to Mr. Ralston to approve and went to Mr. Turpin to get the money. There wasn't but one or two small bills; about two, I think.

WARREN JOHNS,
S'g'd by examiner, E. F. BEST, *Examiner.*

The foregoing one hundred and two pages of testimony taken before me and reduced to writing under order of court in above case.
April 1st, 1885.

E. F. BEST, *Examiner.*

Endorsement: U. S. circuit court, W. div., south. dist. Ga.
357 Ida Ralston *vs.* Geo. B. Turpin. Testimony. Filed in office this 13 day of April, 1885. L. M. Erwin, deputy clerk.

Testimony Taken Before G. W. Gustin, Examiner.

In Circuit Court of the United States for Western Division of Southern District of Georgia.

IDA RALSTON *vs.* GEO. B. TURPIN, Trustee, *et al.*

Evidence taken before George W. Gustin, as an examiner of said court, at Macon, Bibb county, Georgia, May 11th, 1885, Mr. Clifford Anderson, of Lanier & Anderson, being present, representing complainant, and Mr. John C. Rutherford, of Bacon & Rutherford, representing respondents.

THOMAS L. MASSENBURG, introduced by respondents, testified as follows:

I knew James A. Ralston since he was a small boy; have resided in Macon since 1860 continually, except while in the service during the war. I have heard Mr. Ralston say, probably several times, that George Turpin's children were to inherit his property, except Henry Horne, Turpin's son-in-law, whom he said he did not want to have any of it. He did not like Horne; said he was a damned fool.

Cross-examined by Mr. ANDERSON:

358 I cannot recall when I heard him make this remark. He had a room near my store up to the time he left Macon, but do not recall when this was. He was in my store nearly every day; sometimes two or three times. I do not know how the subject came up; do not think I asked him, as I had no reason for doing so; have heard him say frequently that Turpin was the best friend he had in the world. This was after his father's death. He frequently had things charged in my store—generally toilet articles; occasionally stimulants, but not often. He did use stimulants frequently. I cannot recall whether the statement as to how he would leave his property was one or five years before he left Macon. Ralston had great confidence in Turpin. He considered Turpin his best friend (and, I think, justly so). (The statement as to what witness thinks objected to by complainant's counsel.) I never saw Ralston after his marriage, unless he returned to Macon after his marriage, and do not know whether he did return or not. Turpin did have great influence over Ralston. My reasons for thinking so are that he was his father's nearest friend and had been his father's trusted agent in the management of his business, and was also young Ralston's agent in the management of his business. He had great respect for his wishes and advice and exhibited entire confidence in Turpin's management of his affairs. Turpin & Ogden always paid the bills that Ralston made with me.

Re-examined in chief:

359 Turpin exerted no influence that I know of over Ralston except for his own good. The influence of Turpin over Ralston was akin to a paternal influence such as I would exert over a son of mine to keep him from doing wrong; I know of no other. Ralston was at times rather headstrong—was not easily persuaded to do what he did not want to do; had a head of his own. Ralston always approved the bills paid by Turpin & Ogden. They were then paid on presentation at their office.

Recross:

Even when Ralston was headstrong Turpin could exercise influence over him, and could control him through his affection, Ralston looking upon Turpin in the light of a father.

T. L. MASSENBURG.

CHARLES E. DAMOUR, introduced by respondents, testifies as follows:

I have lived in Macon all my life; knew James A. Ralston as a boy; went to school with him; think he was a few years younger than I am. I never heard him say anything with reference to leaving his property to Turpin's children. I never was intimate with him after he grew up; have heard him say Turpin was his best

friend. I thought him a headstrong man. I have seen statements referred to him by Mr. Block, in the office of Turpin & Ogden,
360 and think I have heard him call for a statement of his accounts; have seen him looking over statements—one statement in particular.

Cross-examined:

I saw him frequently after he grew up, but was not intimate with him; not intimate enough to talk with him upon his private affairs.

Redirect:

I recollect meeting him once in New York, when he said something about Turpin's being his best friend. This was probably in 1871 or 1872. I have not been to New York since 1878; have no recollection of seeing Ralston since that time, unless he has been in Macon since; have no recollection of seeing him in Macon since then. I am positive that the conversation referred to was earlier than 1876. I do not know when he left Macon to go to New York to live.

CHAS. E. DAMOUR.

A. O. BACON, sworn for respondents, testifies:

I drew a will for James A. Ralston on May 11th, 1874, to which my name is signed as a witness. I drew it by request & employment of James A. Ralston, as his attorney, and it is in my handwriting. The will was drawn in accordance with the directions of Mr. Ralston. He had several conversations with me about this will. I recollect particularly one conversation, from the fact that it was at an unusual place. I was going into my office from the street, and was
361 hailed by Ralston as I entered the street door, & we walked into the door together, & we sat on the stair steps and discussed the matter fully. I recollect the conversation from this fact, though we had discussed the matter before, but not so much in detail. The phraseology of the will is, of course, mine, but the substance was all directed by him. Mr. Turpin was not present when the will was drawn, and no one was present at the conversation referred to except Ralston & myself. No one, so far as I recollect, was present at any of the conversations. Turpin was certainly not present at any conversation relating to it, and I am confident I never had any conversation with him about the will prior to the time when it was made. I saw Ralston sign the will, and James T. Nisbet, James Munroe Ogden, and Aleck Block sign as witnesses. Ralston was perfectly at himself and very careful as to all the details of the will. I considered at the time and do now that he signed freely and voluntarily. He was perfectly sober and entirely rational. He signed it in the presence of the witnesses, and they signed in his presence and in presence of each other and at his request. I had been the attorney for his mother and family for several years, and

would not have consented to his making a will had he not been sober, and in all conversations I had with reference to it he was perfectly sober and careful, not only as to the general disposition, but all the details.

(All the testimony of this witness, and specially that part as to what he would not have permitted, objected to by complainant's counsel.)

Cross-examined by Mr. ANDERSON:

Ralston was not then a married man. I have never had any
362 general retainer from Turpin & Ogden, and do not recollect having been employed by them in any case prior to that time, but presume and have no doubt that I would have represented them in any case they might have had, though, on reflection, I believe other attorneys have done as much or more business for them than I have. I or firms of which I was a member have, before the time referred —, represented other parties whose business came to us through them as real estate agents, but this same class of business had also been given by them to other attorneys. I have no doubt they consider me as their lawyer. I am one of the attorneys for defendants in this case, and would not be a witness but for the fact that I am a subscribing witness to the will and compelled to be on that account. The only case that I remember that Turpin & Ogden had in court in which they were parties prior to the making of said will was a case involving several hundred dollars, in which I now remember that the firm of which I was a member represented them. Judge James T. Nisbet and either Mr. R. K. Hines or Judge James Jackson were my law partners when this will was made. I think Mr. Hines. I have no distinct recollection of the exact words used by Mr. Ralston in directing the bequest of property to Mr. Turpin and his children, but in a general way the reason assigned was the devotion of Turpin to Mr. Ralston's family, including his father before him, and I do not remember this in connection with his making the will. It may have been from frequent expressions during a
number of years indicating his feelings. Turpin was then
363 the business manager of Ralston, according to my understanding. As a real estate agent he had charge of Ralston's property, renting it, &c. I may be mistaken, but my recollection is that the will was signed in the office of Nisbet, Bacon & Hines when it was drawn. I have no recollection of the payment of any fee for drawing the will, but have no doubt it was paid; but whether by Ralston in person or through Turpin & Ogden I have no recollection. I am perfectly certain that I got no fee from Turpin or Turpin & Ogden for any service in connection with that will. Through whomsoever the fee came, it was paid by Ralston. I cannot state that I did not get the money through Turpin, Turpin & Ogden, or one of their clerks, nor can I state that I did not receive it through Judge Anderson. I have just as much recollection on the one point as on the other. [At that time Ralston always had his pocket full of money, and the probability is he paid me himself.]

This last sentence in brackets objected to by complainant's counsel on the ground that it is obviously conjectured.

The witness made the following statement voluntarily, counsel for complainant having objected to his making it in reply to a question asked by him as to witness'*es* representation of Turpin and Turpin & Ogden:

(Mrs. Ralston, the mother of James A. Ralston, was my wife's first cousin, and I had represented the Ralstons as an attorney before I had ever represesented Mr. Turpin in anything, and before the formation of the firm of Turpin & Ogden, and I regarded my
364 representation of the Ralstons before and subsequent*ly* to the time of my representing Turpin in any matter as due to that family relationship, and not as having been due in any manner to the agency or influence of Mr. Turpin.)

Counsel for complainant objected to the foregoing statement as irrelevant.

Re-examined by Mr. RUTHERFORD:

The deed from J. A. Ralston to G. B. Turpin, trustee, of April 19th, 1881, which is exhibited to complainant's bill, was drawn by me and is in my handwriting. I learned casually through Mr. Turpin that a deed had been made by James A. Ralston to him, as trustee for certain of his children, to the property in dispute, and was told by Mr. Turpin that the deed was to take effect after the death of James A. Ralston. Knowing that a deed of that kind would require some particularity in order to give it effect, I requested him to let me examine it. I recollect stating to Mr. Turpin that a deed which was designed to take effect after the death must be drawn so as to vest the title now. Upon examination of the deed which he then got and brought to me I found that there was phraseology which might not carry out the evident intention of the deed. For this reason I drew the deed of April 19th, 1881. The deed which Turpin brought for examination and which had been executed was dated August 28th, 1880. Up to the time of the examination above referred to I had no knowledge of this deed. [The deed which I drew was a substantial copy of the first deed, and all the informa-
365 tion which I had as to the terms of it I got from the first deed, and the only change which I thought necessary to make was to correct what I considered as informalities as to the vesting of the title by the first deed, and, as I understood it, to carry out the intention of the parties in that deed.]

This last sentence in brackets objected to by complainant's counsel because the two deeds referred to are alike and in what respects the differ and because it is not competent for the witness to give his understanding as to what was the intention of the parties.

I advised Mr. Turpin of the necessity of having the new deed executed in order to carry out the intention of the parties as I gathered from the first deed.

Cross-examined by Mr. ANDERSON:

It was true during the early part of my practice here that other counsel did represent members of the Ralston family. I was then quite young and inexperienced in practice and they had some very important litigation of which I was not of counsel. I never represented James A. Ralston, Sr., he having died before I commenced practice in Macon. From about 1868 or 1869 I represented Mrs. Ralston and James A. Ralston in their personal matters; as an instance, drew the will of Mrs. Bozeman, formerly Mrs. Ralston.

I was in Macon, Ga., when I first learned of the first deed
366 from Ralston to Turpin, trustee, the deed of August 28th, 1880, and when I requested Turpin to let me examine it. Turpin was also here and told me of it in Macon. It was in Macon that I examined the deed of August 28th, 1880, and wrote the deed of April 19th, 1881, from Ralston to Turpin, trustee. Ralston was not at that time in Macon, but was somewhere at the North. I had no communication whatever with Ralston as to the preparation of this last-named deed, but was guided by the deed of August, 28th, 1880 (and by information received from Mr. Proudfit, who drafted the first deed).

This last sentence was in answer to the following question: "Did you have any communication with Ralston as to the preparation of the deed of April 19th, 1881?" and complainant's counsel objects to the answer, so far as it speaks of information received from Mr. Proudfit, because the witness was asked whether he had any communication with Ralston only because to testify relative to statements of Mr. Proudfit *is* hearsay.

Ralston was not present at any of my conversations with Turpin respecting either of the deeds.

A. O. BACON.

JAMES T. NISBET, introduced by respondents, testifies as follows:

I witnessed a will made by James A. Ralston on May 11th,
367 1874, and signed the same as a witness. I saw the testator sign and also the other witnesses and I signed in his presence and that of the other witnesses. I saw James Monroe Ogden, A. O. Bacon, and Aleck Block sign as witnesses.

Cross-examined by Mr. ANDERSON:

I do not recollect where the will was signed nor the circumstances. I know at the time that Mr. Bacon prepared a will for Mr. Ralston, but did not then read it and have not yet done so. I was at that time one of Capt. Bacon's law partners; do not remember whether any one besides Ralston and the witnesses were present at the execution of the will. I am very sure that Turpin was not present at the execution of the will; have no recollection of Turpin being present in the office during the time of the preparation of the will, but cannot say that he was not.

Re-examined:

The preparation of this will was a matter in Mr. Bacon's special charge. I know nothing about the contents, having given attention to it and simply signed it as a witness.

JAMES T. NISBET.

MONDAY, *May 18th*, 1885.

SOLOMON WAXELBAUM, introduced by respondent-, testified as follows:

368 I knew James A. Ralston during his life, while he lived in Macon and after he removed to New York. I met him several times in New York, the last time in 1882. I met him near Union Square park and had a conversation with him. He told me where he was boarding and asked me to call and see him; seemed to be in good mind, and talked as sensibly as any other man would. I expect I saw him in 1879, 1880, and 1881, but do not recollect distinctly; probably met him in passing, but had no conversation that I recollect. The conversation in 1882 lasted from five to ten minutes. I do not recollect seeing him drunk in New York. I recollect once, when he lived in Macon, he came into my store and told me to let a certain lady have goods and charge to his account, and the goods were sold and charged to Mr. Ralston. The bill for the goods was afterwards presented to Mr. Turpin, who refused to pay it until he saw Mr. Ralston. Mr. Turpin, having been called on several times to pay the bill, was angry, stating that Jimmie Ralston spent his money faster than it came in—that he overdrew his account.

S. WAXELBAUM.

A. BLOCK, introduced by respondents, testified as follows:

369 I witnessed the signature of James A. Ralston to the will of May 11th, 1874. My signature is to the will, and I saw Mr. Ralston sign it. I cannot recollect what transpired at the signature of the will. I suppose he was sober when he signed it, as Mr. Turpin never allowed him to do any business when he was not sober. It looks as if he had been sober, as he could not write or do business when not sober.

Cross-examined by Mr. ANDERSON:

I do not recollect having heard Mr. Ralston talk about this will before he signed it; do not recollect where it was signed. I have often heard him talk about leaving Mr. Turpin what he had when he died. To the best of my recollection these statements were made in the office of Turpin & Ogden. Mr. Ralston was in the habit of coming to the office between twelve and one and three, when no one was there except myself. He was a man of late habits; did not generally get up till twelve or one o'clock. To the best of my knowledge I do not think he made the statements as to leaving his prop-

erty in Turpin's presence. He had no one for his kinfolks, and was more intimate with me than with any one except Mr. Turpin. I was book-keeper of Turpin & Ogden during this time, and still am. Mr. Ralston, at the time of his death, had an aunt who had several children. He had five aunts, three of whom had children. I never saw the will after it was executed. I never even saw the inside—
370 may have seen the outside, as Mr. Turpin had it in his private box. I don't remember that it was given to Mr. Turpin immediately after it was signed. It was given to him soon after and remained in his box until now. I know the property embraced in deed of gift to Mr. Turpin's children. It has been worth for rent during the years from 1881 to 1885, inclusive, about six thousand dollars per annum. The property itself is worth between forty and fifty thousand dollars. The other stores which belonged to Ralston at the time the deed of gift was made and not embraced therein were worth for rent during the same time between forty-five and forty-six hundred dollars, including rooms upstairs. This last-named property is worth between thirty-five and forty thousand dollars. The property in the deed of gift and that not in it were worth relatively about the same four years ago as now.

Re-examined by counsel for defendants:

The rents given above were the gross rents, out of which was to come insurance, taxes, repairs, & commission. The insurance was heavy on the property—three and three-quarters per cent.; at one time five per cent., this being on the whole property. The estimate of values of property and of rents may differ from an estimate heretofore made by me in this case, as it is from guess-work. I could make a more correct one with more time. Mr. Turpin had other wills in his keeping besides Mrs. Ralston's. He had Mrs. Bozeman's and Mrs. Damour's. We have a fire-proof vault & safe inside of it, and Mr. Turpin's box is kept in this safe, and is a safe place. The vault was used as a bank vault before Turpin & Ogden had
371 the office. Prior to Capt. Carnes' safe deposit vault being built it was used by many persons as a place of deposit. The endorsement on envelope containing will of 1874 is in Mr. Turpin's handwriting.

Recross:

I have been connected with Turpin & Ogden's real estate business for about thirteen years; am familiar with rents of property in the city; have attended to the collection of rents of the property testified about during this time. The estimates as to the values of the property and of the rents are my honest judgment at the present time. My statements as to the rental are, as near as I can remember, what it is now bringing, and do not think it has varied much for four years. The five stores not included in deed of gift embrace two which were deeded to Mrs. Laura Smith.

Re-examined:

I think the deed to Mrs. Smith was made after the deed of gift, but do not remember.

ALECK BLOCK.

The foregoing testimony taken & reduced to writing before me, all the witnesses having been duly sworn before the examination and having signed their depositions in my presence.
May 15th, 1885.

G. W. GUSTIN, *Examiner.* [L. S.]

Endorsement: In U. S. circuit court, western division, so.
372 dist. of Ga. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Testimony and report of examiner. Filed May 26th, 1885. L. M. Erwin, deputy clerk.

Testimony Taken Before Joseph H. Hall, Examiner.

In Circuit Court of the United States for Southern District & Western Division of Georgia. In Equity.

IDA RALSTON *vs.* GEO. B. TURPIN, Trustee.

Evidence taken before Joseph H. Hall, Esq., an examiner of said court, at Macon, Bibb county, Georgia, May 20th, 1885, Mr. Clifford Anderson, of the firm of Lanier & Anderson, being present, representing complainant, and Mr. A. O. Bacon, of the firm of Bacon & Rutherford, being present, representing respondents.

HENRY HORNE, introduced by respondents, testified as follows:

Identified will of Jas. A. Ralston, bearing date Dec. 15th, 1879. He says signature attached to the will is his. I signed the will, as a witness, by request of Mr. Ralston. I saw Mr. Ralston sign it. The other witnesses are Horace E. Jones, of New York, and James Edward Grayhill, both of New York and now residing there. Mr. Ralston signed the will in the presence of the witnesses, and they, the witnesses, signed it in his presence and in the presence of
373 each other. The will was executed in Mr. Grayhill's office, in New York city, I think, at the time it bears date. The date was filled in at that time and place. No one was present except the testator and witnesses. Mr. Ralston was at himself and knew what he was doing when the will was executed. He directed the changes in the will, which appear in Mr. Grayhill's handwriting. I was at the store of Horace Jones, a tailor, in New York city, and there met Mr. Ralston. He asked me if it would be convenient to go the next day to Mr. Grayhill's office to witness a paper for him. I told him it would, and next day we met in Mr. Grayhill's office by appointment. Mr. Grayhill asked Mr. Ralston if he was aware of the fact that a party who had an interest in the will could not be a witness, and Mr. Ralston said he was, and the will was then signed. I had

no knowledge of the paper until I got to Grayhill's office. After the will was executed and sealed and enveloped it was handed to me by Mr. Ralston, with a request to deliver it to Mr. Turpin in person. I did not make any suggestion about giving the will to me to bring to Mr. Turpin. I did not know I was to bring it out until Mr. Ralston handed it to me. I am familiar with the property known as Ralston's block, in city of Macon. The property devised by the will of Ralston to Geo. Turpin, as trustee for certain of his children, is the same property conveyed by Mr. Ralston to Mr. Turpin, as trustee for certain of his children, by the deed of April 19th, 1881. The will above referred to is the will of Dec. 15th, 1879. The property conveyed in the deed of Ralston to Turpin, trustee, dated Aug. 26th, 1880, is also the same property devised by the will of Dec. 15th, 1879. I married Mr. Turpin's daughter.

My wife is not mentioned in either one of the wills
374 or in the deed as one of parties for whom the property is conveyed or devised. The children named in the two deeds and in the will are all the children of Mr. Turpin except my wife. The child named Lizzie in the deeds & wills is dead; all the others mentioned are living. There are five stores in Ralston's block which belonged to Mr. Ralston at the time of the execution of the deeds & will which are not conveyed by either of the deeds or by the will. For some purposes one piece of the property may be more valuable than the other. The property conveyed by the deed to Mr. Turpin is for some purposes more valuable than that not conveyed to him, but for other purposes I consider the other property more valuable. If I am not mistaken, the property not conveyed in the deed embraces the most ground. There is no way to reach the property conveyed by the deed except by going over the property not conveyed—that is, from the rear. Taking the property as it stands, I do not think there is more than from three to five thousand dollars in value in favor of the property conveyed by the deed. For sale or subdivision I prefer the property not embraced in the deed. I am a real estate and insurance agent. I have been in the business twelve years, five years on my own account; the whole time in Macon. I was before going into business on my own account employed by Turpin & Ogden as a clerk. I was not on Dec. 15th, 1879, with Turpin & Ogden. I was arranging to go into business for myself. I was married at that time. I think the reason that Mr. Ralston did not embrace my wife in either of the deeds or will was personal dislike to me. I have

known Mr. Ralston since 1872. From 1872 to 1879 I saw him
375 almost daily, except when he was absent from the city; saw him on the streets and at the office of Turpin & Ogden. Mr. Ralston stated to me once or twice that he intended to leave his property or a portion of it to Mr. Turpin's children. Never saw Mr. Turpin, in his intercourse with Mr. Ralston in his office, make any effort to induce Mr. Ralston to leave any portion of his property to Turpin's children. Mr. Turpin treated Mr. Ralston with no more courtesy than he would any other customer. Never knew Mr. Turpin to make any effort to get Mr. Ralston to give any portion of his property to Mr. Turpin's children by deed or in any other way, or

to himself either. I never saw anything peculiar in their business intercourse. Turpin treated Ralston as he would any other customer, managing the business for the best interest of Ralston. I never saw Mr. Turpin make any effort to keep Mr. Ralston's business. I heard Mr. Turpin one day tell Mr. Ralston that if he did not like the way he was managing his, Ralston's, business he could take it somewhere else.

(Mr. Anderson, of counsel for complainant, objected to the conversation between Turpin & Ralston.)

I think the commission, 7½ per cent., charged by Turpin & Ogden for attending to the business of Ralston was reasonable enough. I don't think I had any knowledge from any one before I went to New York that Mr. Ralston was going to make the will. A month and one-half or two months before going to New York Mr. Ogden or Mr. Proudfit enquired of me the names of Mr. Turpin's children without stating the object of the inquiry. I did not know the object. Mr. Ralston was pretty hard-headed. I mean by that, strong-minded, a man you could not twist or turn to suit you.

376 By Mr. BACON: Was Mr. Ralston a man easily influenced to do a thing he did not want to do?

(Objected to by Mr. Anderson, of counsel for complainant, as leading.)

Witness answered, No.

By Maj. BACON: Mr. Horne, I want you to give your opinion from your acquaintance with Mr. Ralston as to the character of his mind in relation to his being easily influenced in any matter against his inclination.

(Objected to by Mr. Anderson, of counsel for complainant, as leading.)

Witness answers: I do not think he was a person who could be influenced against his inclination.)

Cross-examination by Mr. ANDERSON, of counsel for complainant:

I was married on the 8th day of January, 1878, to Mr. Turpin's daughter. I went to New York in 1879 to make connections for business. I intended to establish myself. I ceased to act as clerk for Turpin & Ogden 1st December, 1879. I am positive it was Mr. Ogden who asked me the names of Turpin's children at the time referred to in my direct examination. I never did hear afterwards what was the object in asking for their names. The body of the will I witnessed is in the handwriting of Mr. Proudfit; Mr. Proudfit was then a lawyer living in Macon, Georgia. Mr. Turpin did not say anything to me, not a word, about the will before I left for New York. I had been in New York two weeks before I met Ralston at Jones' office. I may have seen him once or twice before that day during my stay in New York. I went to Jones' shop to make a so-

cial call on Ralston. I had met him there once or twice be-
377 fore he made this appointment with me. Mr. Turpin did not say a word to me about Ralston before I left Macon; neither Mr. Ogden or Proudfit said a word to me about Ralston before I left Macon for New York. I knew before I left Macon where Mr. Ralston made headquarters in New York. I knew Ralston before he left Macon, and merely called on him in a social way. Before I met him at Jones' shop Mr. Ralston did not know I was in New York. I do not think Mr. Proudfit was in New York when the will I signed was witnessed; he was not then present. I am pretty positive he was in Macon, Georgia; have no recollection of meeting him in New York on that visit. I had no information as to the contents of the will when I signed as a witness; Mr. Ralston merely glanced over it; directed Mr. Grayhill to make certain changes in it, and then asked him if he had made the changes. Mr. Ralston then attached his initials to the part changed and then attached his signature to the will. He put his initials to the changes at Grayhill's suggestion. I do not remember whether Ralston took the will from an envelope when he handed to Grayhill or not. Mr. Ralston did not tell me that the will had been prepared by Mr. Proudfit in Macon & sent on. He did not say a word to me about who prepared the will, merely asked me to be a witness to the will and to bring it back and deliver it to Mr. Turpin in person. This is all that Ralston said to me about the will. The only reason that Ralston had for disliking me was that before either Ralston or myself were married I called on his woman, Ida Blanchard, now Ida Ralston, in a public house in the city of Macon, and Ralston heard of it; this is the only reason I know. I always
378 treated him with a great deal of respect. I had always understood before I witnessed the will referred to that Ralston was going to give a portion of his property to Mr. Turpin's children. I do not know that I have ever heard Mr. Turpin say that he expected Mr. Ralston to leave any of his property to his children. I have heard Mr. Block, an intimate friend of Mr. Ralston, say in the office that Mr. Ralston intended to leave a portion of his property to Mr. Turpin's children. I think I have heard Mr. Ogden say the same thing, and parties on the streets. In 1880 and 1881 I would say that the difference in value in the property embraced in the deed and that not embraced in the deed was between three and five thousand dollars in favor of the property embraced in the deed. At that date Mr. Ralston had no other landed property that I know of, except the property testified about and an interest in the mansion on the hill. I do not know when his interest in the mansion was sold. It was several years before his death; do not know what his interest was. Two of the stores embraced in my valuation which are not in the deed of gift are the stores conveyed by Mr. Ralston to Mrs. Laura Smith. I do not know whether this was done in consequence of Mrs. Smith's suit or not. I do not know how much more ground is connected with the stores not embraced in the deed of gift than there is to those so embraced, but I only know that one store not embraced in the deed of gift runs back 208 feet 6 inches,

which is more than the depth of the stores in the deed. All the stores embraced in the deed of gift front on Cherry street, Macon, Georgia, which is one hundred and twenty feet wide. Ral-
379 ston Hall is a part of the property embraced in the deed of gift, and was at that time the principal hall for theatrical exhibitions in the city of Macon.

Redirect by Maj. BACON, of counsel for respondents:

The property conveyed by the deed of August 28th, 1881, by Jas. A. Ralston to Geo. B. Turpin, as trustee for certain of his children, conveys the same property as that devised in the will of Dec. 15th, 1879, and the deed of August 26th, 1880, and the deed of April 19th, 1881. Mr. Block, referred to in cross-examination, is Alex. Block, book-keeper for Turpin & Ogden.

H. HORNE.

THURSDAY, *May 21st.*

Examination resumed, Mr. Anderson, of the firm of Lanier & Anderson, being present, representing complainant, & Mr. Rutherford, of Bacon & Rutherford, representing respondents.

Before proceeding with the examination Mr. Rutherford, of counsel for respondents, demanded of Mr. Anderson a certain letter identified by Mr. Block in his testimony as written by Mr. Turpin. Mr. Anderson declined to produce the letter for the following reasons, stating that the letter was at his office, which is about one hundred yards from the place where examiner is sitting to take testimony; that the letter has not yet been offered in evidence and may
380 not be; respondent has not served any notice to produce the letter; that the opposite side can see it when offered in evidence, Mr. Anderson stating that he cannot state the contents of the letter with accuracy, and is unwilling to undertake to make any statements about the contents of it.

GEO. B. TURPIN, respondent, sworn, and testified as follows:

(Mr. Anderson objects to the testimony of Mr. Turpin on the ground that he is not a competent witness in this case to testify to any matter or thing which occurred between him and James A. Ralston, Junior, who is dead, relative to the subject-matter of this suit, which is material to its determination.)

I am the trustee named by Ralston in the deed to my children to the property in this city. Since the last deed was made my child, Lizzie Turpin, mentioned in the deed, has died. I have never obtained possession of the last will made by Jas. A. Ralston left by him at the time of his death. I guess Mrs. Ralston has the will. I have made a demand upon her for the production of the will and she refuses to give it up. [Mr. Massenburg & myself are executors named in the will.]

(The last answer, that part of it in brackets, objected to by Mr. Anderson, of counsel for complainant, on the ground that it is not

competent for Mr. Turpin to give in evidence or testify as to the contents of the will.)

381 I knew Jas. W. Ralston, Sr., the father of Jas. A. Ralston, Jr., for a great number of years before his death, ever since I was a young man. I attended to a good deal of business for Jas. A. Ralston, Sr., while he was in life. I had his friendship and confidence as much so as any man in Macon, and it continued until his death. I don't know exactly when he died, but think it was in 1865. I had the confidence and friendship of his family after his death. Mr. B. A. Thornton, of Columbus, administered on the estate of Jas. A. Ralston, Sr. I attended to all the business of the estate here after Mr. Ralston's death, under Mr. Thornton, as administrator. The bulk of the estate was here. I had the management of the estate here in Macon for the administrator. I think I discharged my duties in the management of the estate to the satisfaction of all parties concerned. I think it was in 1867 I was appointed guardian of Jas. A. Ralston, Jr. I believe he was then about nineteen years of age. Jas. A. Ralston, Jr., himself selected me as his guardian; it was without solicitation on my part. I continued to manage the property of Jas. A. Ralston, Jr., from the time of my appointment as guardian until he became of age, which event occurred about 1869. When he became of age I had a full and final settlement with him and turned over his property to him. I think I turned him over everything and got a receipt. I then got my letters of dismissal. He expressed himself as fully satisfied with my management of his property. After I had been dismissed as guardian Mr. Ralston employed the firm of Turpin & Ogden

382 to rent out and look after the property. Turpin & Ogden continued up to Mr. Ralston's death to rent out and look after his property. I was the member of the firm Mr. Ralston looked to more especially to take care of the property. I did not know that Jas. A. Ralston, Jr., was going to make the will of 1874, which has been testified about. I did not suggest to Mr. Ralston or ask him or intimate to him to make that will or any other for the benefit of myself or children. The will was freely and voluntarily made, without any suggestion on my part. Mrs. Amelia M. Bozeman was the mother of Jas. A. Ralston, Jr. She married Bozeman after the death of Jas. A. Ralston, Sr. Mrs. Amelia M. Bozeman told me that the reason she did not remember me in her will was because Jimmie had or would do so in his. She said at that time that I had been a good friend to the family. I don't remember how long before the will of 1874 was made that she told me this, but I think it was some time before. If I ever stated to Jas. A. Ralston what his mother had said about his intention to leave me or my children any portion of his property I don't remember it. I don't think I ever told him prior to the making of the will of 1874. The will of 1879 was made, I think, in New York. I was not present in New York when the will of 1879 was made. The will of 1879 was freely and voluntarily made by Jas. A. Ralston. I was in Macon at that time. I did not solicit him to make the will, and if I did he had made

some intimation to me about it before. I don't say I re-
383 minded him at all, but if I did remind him it was because of something he had said before. I don't think I ever asked Mr. Ralston to make the will of 1879 for the benefit of my children. I can state positively I never asked the will of 1879 to be made unless Ralston first mentioned it to me. I mean by the expression that he first spoke to me about the will, that Ralston expressed it as his intention to make the will in the way which he did—that is, if he ever did mention the will to me before he made it. Annie, who was embraced in the will of 1874, was not embraced in the will of 1879. She was one of my children. He left her out of the last will on account of his dislike to Mr. Horne, whom she had married. If I had been consulted about the making of the will of 1879 I would not have had my daughter Annie left out. I had the same degree of affection for my daughter Annie that I had for my other children. Mr. Ralston sometimes drank to excess, but at other times he would keep straight and sober and behave himself as gentlemanly as anybody. I have known him to keep sober for twelve months and not drink anything stronger than ginger ale. He was when sober perfectly rational. When drunk he was about like other men when drunk. I made just as much effort in every shape & form to keep him from drinking as if he had been my own son. I do not think I had influence enough over him to keep him from drinking, for I tried and could not do it. I tried to influence him against evil habits and evil associates, but I did not have influence enough to do it. Ralston knew Ida Ralston several
384 years before he married her. I attempted several times to break up the connection between Jas. A. Ralston and Ida Blanchard, afterwards Ida Ralston. Before the marriage Jimmie would sometimes get—— (Here Mr. Rutherford interrupted witness to ask another question.) Ida Blanchard was a woman of bad character and a bad woman. She was down in one of these public houses. I mean by public house a lewd house. Sometimes Ralston would come to me to get money, and I would say, Jimmie, what do you want with all this money? (They would probably have had a row down among them) and she would want money to send off to her people, and this would fix up things for a few days; and I would say whenever she wanted money she would get up a fuss. In other words, that is the way she beat him out of it, or a heap of it. She led him into dissipation to a considerable extent. He had considerable bills at these houses for wine and champagne. Miss Jack Minor and Miss Zella Ivey would send these bills in. These persons kept lewd houses.

(Counsel for complainant objects to all foregoing testimony relating to character of Ida Blanchard, where she staid, to her leading Ralston into dissipation, getting money from him for other people, and about the bills of Minor and Ivey for wine, and the nature of the houses they kept as irrelevant and purely hearsay.)

As to one of these bills contracted at these lewd houses for wine Ida Blanchard said to me it was not correct; that it was for too

much. These things coming to the ear of his friends—the
385 way he went on down there—did not do him any good at all. I think his friends and relatives were anxious to break off this connection—in fact, I know they were.

(That part of the testimony relating to the anxiety of Ralston's friends and relatives to break off the connection with Ida Blanchard objected to by counsel for complainant as irrelevant and hearsay.)

At one time Ida Blanchard went to California. Jimmie got the money from me for her to go, so he said. I thought she had quit for good. She came back to Mr. Ralston. I know she told Jimmie that while in California she staid with that rich Ralston out there.

(All the above testimony about Ida Blanchard and Ralston objected to by complainant's counsel as irrelevant and hearsay.)

After Ida Blanchard came back she went to New York. Jimmie followed her there. I cautioned Jimmie. I thought the game she was playing was to get him to New York to marry him. Before he left I told him, Jimmie, if you don't mind you will get there and register your name and hers at some hotel as Jas. A. Ralston and wife. I told him that the law of New York was that if they were so registered at a hotel she could make him marry her, as I heard that was the law of New York. Ralston said he never intended to marry her.

(All the foregoing testimony after the last objection next above noted objected to by complainant's counsel as irrelevant and hearsay.)

I have never had any notice that Ralston intended to
386 marry Ida Blanchard. So far as I know or ever heard the marriage of Ralston to Ida Blanchard was kept secret from his friends in Georgia—kept such a secret that I did not believe it until Ralston told me. At Saratoga, in August, I received the first reliable information that they were married. In this matter Ida Blanchard had greater influence over him than I had. Ida Blanchard had greater influence over Jim Ralston than I had. After I heard they were married I went to Stamford, Conn., where they were then living. I went to Stamford to learn whether or not they were married. When I went I hoped the report was not true. When I got there Jimmy introduced her to me as his wife. They seemed to be very glad to see me; treated me very well while I was there. Ida said they were married, and showed me the marriage certificate. When I found they were legally married I did not reproach or upraid either of them; told them I hoped they would get along peaceably together. She said she was associating with some of the nicest people there, and that she did not want me to say anything about her former life. I told her I was not going to say anything about it. I told her that I wished them well and hoped they would get along well together; that they had a nice place and a nice home, and I did not see anything to keep them from getting along well. I don't think there was an unkind word

from bottom to top, or even a feeling that I know of. While there I told Ralston that now that he was married the will he had made in favor of my children would be of no good; and, if it was
387 agreeable to him and to her, I had a deed draw-, and read — to them, and they both said they would sign it with pleasure and glad for me to have it that way. The deed just gave the children the same property as the will did, and they both said they would do it with pleasure, and it seemed to afford her as much pleasure as Ralston, and they did not either one seem to make the least objection. I then told them it was necessary to have the deed signed before a commissioner for the State of Georgia. There was no commissioner in Stamford. Jimmie and Ida and Mr. Ogden went to Bridgeport, Conn., to find a commissioner but failed. I did not go to Bridgeport with them, but staid at their house in Stamford while they were gone. Mr. Ogden had relatives living in Stamford and went there to see them. We went there together, each paying our own fare. I suppose he went to see Jimmie, as Jimmie invited him when he went North to come to see him. Both of us always went to see him when we went North. Ogden, I believe, stopped at the hotel in Stamford. Jimmie went over after him at his own suggestion. I had never used any inducement or persuasion to get them to sign the deed before they agreed to sign it. At the time they agreed cheerfully to sign the deed. I had used no inducement or persuasion in any manner, shape, or form. When Ralston and wife and Ogden returned from Bridgeport they said they could not find the commissioner. Ralsón and his wife then proposed to go to New York for the purpose of signing the deed before a
388 commissioner of Georgia. Either Jimmie or Ida, one, went to one of the neighbors near there to find out the name of a commissioner for Georgia residing in New York. I did not have to persuade them to go to New York; they themselves voluntarily and cheerfully proposed to go. Jimmie Ralston, Ida, and myself went to New York and went to the office of the Georgia commissioner for the purpose of having the deed signed. Ralston and his wife went there freely and voluntarily for the purpose of signing the deed. When they got to the office they signed the deed dated 26th day of August, 1880. They signed the deed freely and voluntarily and of their own accord. Another deed to the same property was signed by the same parties on the 28th day of August, 1880. This second deed was signed because there was some informality about the deed of August 26th, 1880. The deed of the 28th of August was signed freely and voluntarily by both Ralston and his wife. Mr. Ralston was, at the time when the deeds of the 26th and 28th of August were signed, sober. He was, at the time he signed both those deeds, perfectly rational. He understood and knew exactly what he was doing and intended to do what he did. Mr. Proudfit drew both of the deeds. I got him to draw them. I think Mr. Proudfit was in New York when he drew the deeds. Mr. Proudfit is a lawyer in Macon. I did not carry Mr. Proudfit to New York for the purpose drawing any deeds; casually met him there. Proudfit said there

was some informality in the deed of the 26th of August, and
389 for that reason the deed of the 28th of August was prepared and signed.

FRIDAY, *May* 22*d*, 1885.

Examination resumed, with GEO. B. TURPIN still under examination.

The deed of the 19th of April, 1881, was made because Mr. Bacon asked me to let him see the deed of August 28th, 1880, and said there was an informality in it, and then drew the deed executed on the 19th of April, 1881, from Ralston and wife to myself, as trustee for my children.

This last deed embraced the same property as the other two deeds and the will. After Mr. Bacon drew the deed I sent it from Macon, where I then was, to New York, to Mr. Ralston. My recollection is that I sent it by mail. Ralston had the deed executed and sent it back to me. I did not use any persuasion to get him to sign the deed.

(Mr. Anderson, of counsel for complainant, objected to that portion of the testimony of the witness saying that he had not used any persuasion to obtain the deed, because it is apparent from the witness that the deed was sent to Ralston by mail, inclosed in a letter from witness to Ralston, and the letter should be produced or accounted for before evidence of its contents is admissible.)

I was not present in New York when the deed was signed. I met Mr. Ralston after the deed of April 19th, 1881, was executed, and he alluded to the deed. He was talking about the deed. He told me he had sent the deed and I told him I had got the deed, and he said it was all right. At the time Mr. Ralston told
390 me that he had sent the deed and asked me if I had received it he was perfectly rational and sober.

From the time that any of the deeds were signed neither Ralston nor his wife ever expressed to me the slightest dissatisfaction with any of the deeds. I have no recollection of ever having heard that either Ralston or his wife ever expressed the slightest dissatisfaction about the signing of the deeds, or either of them, up to the death of Ralston. I will not say positively, but I do not remember that at the time I was in Stamford, Conn., that I made any comparative value of the property given to my children and that Ralston had left in my conversation with Ralston and his wife. What I mean by the property he had left was the property not embraced in the deed. At the time the deed of the 26th of August, 1880, was executed the property owned by Ralston and not embraced in the deed was worth about twenty thousand dollars more than the property conveyed by the deed. Mr. Ralston was as well acquainted with his property as I was. I never used any threats or persuasions to induce Mrs. Ralston to sign any of the deeds. I told them now that they were married I hoped they would get on pleasantly; that I saw no reason why they should not. The last time I saw Ralston I was at the house where Ralston and his wife were. Jimmy took me in

a room and was talking to me, and his wife came in the room where we were. She had a lot of hair in her hand and told me Jimmie had pulled her hair out. Jimmie's face was a little bruised. I asked him what it was. Ida said Jimmie had pulled the hair out
391 she showed me. Jimmie said she was a damned liar, she had combed it out. He said that in her hearing. I told him I did not want any more such talk as that. He told her to go out of there. He said Ida made the bruise on his face. He said she sometimes treated him well and sometimes she did not. After they were married whenever I saw them I advised her to deal kindly with him and be patient with him. I never did, to my knowledge, do anything to bring about a separation or to cause Mrs. Ralston to believe I wanted them separated. Dr. Bozeman, Jimmy, and myself were the executors of Mrs. Ralston's will—I mean Mrs. Bozeman; I alone qualified. The bulk of her property was left to Dr. Bozeman, her husband. Dr. Bozeman and the others interested permitted me to wind up and manage the estate. I manage Dr. Bozeman's property now. (To the best of my recollection I was allowed five thousand dollars by the ordinary for turning over estate of Mrs. Bozeman to the legatees.)

(The last sentence objected to on the ground that there is highest evidence of the commission allowed. The above objection made by complainant's counsel.)

The legatees under Mrs. Bozeman's will were Dr. Bozeman, Jimmie Ralston, Mrs. Smith, and, I think, Mrs. Lamar. Dr. Bozeman paid me two thousand dollars of the five thousand dollars commission allowed me. I never charged Jim Ralston anything or collected any part of the commission from him. Jim Ralston frequently overdrew his account with Turpin & Ogden. Sometimes he had some money to his credit. Turpin & Ogden did not
392 charge Ralston any more commissions for managing his property than others; charged him less than some; charged him and Dr. Bozeman the same. The property given to my children had a mortgage of five thousand dollars on it in favor of Maj. W. H. Ross. Ralston, during his life, paid twenty-five hundred dollars on the mortgage. He made this payment of his own accord. He said he would like to pay it all, but needed the money. Mrs. Laura R. Smith was the sister of Jas. A. Ralston, Sr., and the aunt of Jas. A. Ralston, Jr. Her claim against the property left by Mrs. Bozeman to Dr. Bozeman and Jas. Ralston, Jr., was that some of the property so left had belonged to her father, and Jas. Ralston, Sr., had never settled with her for her interest in their father's estate, he having been the administrator of David Ralston, the father of Mrs. Smith and Jas. A. Ralston, Sr. Mrs. Smith filed her bill in Bibb superior court, setting up her claim against Jas. A. Ralston and Dr. Bozeman. At the time of the filing of the bill Jas. A. Ralston was in New York. He authorized me to bring about a settlement amicably if I could; and, if not, to litigate in the court. Dr. Bozeman and myself, after an examination of the papers of Jas. A. Ralston, Sr., came to the conclusion it would be best to settle. I

also consulted Col. Henry J. Lamar as to what was best to be done, & he also advised a settlement.

(Mr. Anderson, of counsel for complainant, objected to that portion of the testimony about the consultation with Lamar and his advice as being illegal, irrelevant, and hearsay.)

Col. Lamar was a man of fine judgment, great business experience, and brother-in-law of Dr. Bozeman.

393 (Objected to by Mr. Anderson, of counsel for complainant, on the ground that it is irrelevant and illegal.)

Dr. Bozeman paid the same amount to bring about the settlement as Jas. A. Ralston did, except that Jas. A. Ralston, Jr., gave to Mrs. Smith a deed to two stores in Macon to take effect after his death, with the privilege to Ralston's estate to redeem them within nine months after his death by paying ten thousand dollars. After Col. Lamar and Dr. Bozeman had advised the settlement I thought, after an examination, it would be best to settle it; Jimmie thought the same way and Ida Ralston, too. I went on to New York and submitted the settlement to Jimmie and his wife in person. That part of the settlement as to whether the notes given were to bear interest was compromised by Ralston giving Mrs. Smith the deeds; was either submitted to Ralston by letter or in person. I went there twice about this matter. In representing Ralston in this matter I acted conscientiously and believed it was for the best interest of Ralston to make the settlement. Jas. A. Ralston signed the settlement. After Jas. A. Ralston made the deed to my children he deeded two stores in the city of Macon to his wife. I rented out the stores for Mrs. Ralston after Jas. A. made her the deed and paid her the rent for them. She accepted them after he made her the deed. Both Jimmie Ralston and his wife fully understood the contents of the deeds they signed. I think Jas. Ralston knew the value of the property he gave my children. I never thought of such a thing as watching over her until the papers were signed, as testified by her in her interrogatories. I have cautioned Jimmie and told
394 him that unless he took care of his property somebody would have to take care of him. I may have said I would have to do it.

(The above was stated in answer to a question as to whether the statement of Mrs. Ralston in her testimony was true about the witness having told Ralston frequently that if he did not take care of his money he would have to support him, &c.)

I never objected to Jimmie Ralston coming South on account of his health.

By Mr. RUTHERFORD:

Question. Is the following statement in Mrs. Ralston's testimony true or not, to wit: "They would not give me a chance to see a lawyer; they were with me all the time until the first deed was signed?

Answer. I never dreamed of such a thing. Mrs. Ralston expressed no desire or intimation that she would see a lawyer before signing the deed. When I got the letter referred to by Mrs. Ralston in her interrogatories, stating that Ralston wanted me to come on, settle up his business, although I do not think the letter read that way, but that it asked me to come on if I had any business to settle with him, my idea was that as I was then busy renting out this property, and that I would hurry up and as soon as I got through renting I would go on. I had no idea that he was going to die that early. I wrote to his wife that if he got any worse to let me know. I think I wrote her this.

(Complainant's counsel objects to that portion of above testimony stating contents of letter.)

SATURDAY, *May 23rd.*

Examination resumed:

395 Complainant's counsel objected to so much of the foregoing evidence of Geo. B. Turpin as relates to transactions with or statements by Jas. A. Ralston, Jr., who is dead, and also to so much as relates to the statements of Jas. A. Ralston, Sr., and statements of Mrs. Bozeman, who are also both dead, and whose statements, moreover, are hearsay.

Cross-examined by Mr. ANDERSON, of counsel for complainant:

I had the custody of the will of Jas. A. Ralston, Jr., made in 1874 (the will testified about), from the time it was made to the present time. When Jas. A. Ralston, Jr., became of age he did not remove any of his papers or property, but arranged with the firm of Turpin & Ogden to manage his affairs for him. I don't think he took anything off that had been in my hands. I was at that time a member of the firm of Turpin & Ogden, & have been ever since. The firm of Turpin & Ogden continued uninterruptedly from that time to manage his property until the time of his death. The will of 1879 was prepared by Mr. Proudfit in Macon, Georgia. I did not have it prepared, nor did I send it on. I don't think I knew anything about the preparation of the will of 1879 by Proudfit, and if I heard anything about it I do not remember it. I was in Macon at that time. The will was brought to me soon after its execution by Mr. Horne, my son-in-law. I kept this will from the time Horne brought it to me until Ralston's death. I had the last will of Jas. A. Ralston prepared in Macon, Georgia, & sent on to him. While in New York Mr. Ralston gave me a memorandum of the will in the presence of Mrs. Ralston, and asked me to have it prepared. They both talked it over. The last will was the will made in 1881, and which I demanded from
396 Mrs. Ralston. This was the will which appointed T. L. Massenberg and me executors. I was paid for my services in representing Jas. A. Ralston, Sr., and B. A. Thornton, the administrator of said Ralston's estate, in the management of their property. I also received my commission as the executor of the last will of

Mrs. Bozeman. I used to do repeated favors for Jas. A. Ralston, Sr., for which I received no pay; he thought a great deal of me and I thought a great deal of him. I don't know who told Jas. A. Ralston, Jr., about the informality in the deed of August 26th, 1881, from Ralston to myself as trustee for my children; probably Proudfit told Ralston of the informality, as I would not have known of it myself; or Proudfit probably told me and I told Ralston. I am pretty certain that Mr. Ogden was at Saratoga with me in August, 1880, when I received the first information that Ralston was married. I don't remember whether Ogden and I left Saratoga together for Stamford. I don't think we went direct from Saratoga to Stamford. I don't remember whether Ogden and I went from Saratoga to New York together. We did go from New York to Stamford together. I don't know positively, but I am pretty certain—yes, I am satisfied—that Ogden knew I had the deed prepared before I left New York. My recollection is, I think that I told him I had the deed before we left New York—I mean the deed executed by Ralston and wife to me as trustee on the 26th day of August, 1880, and already referred to by me in my evidence. I don't remember whether I proposed to Ogden to go with me to Stamford or not; I may have done it, or Ogden may have proposed to go with me. If I had not had any deed I would have gone to Stamford anyhow; I was going there anyhow, and I wanted to get the deed signed; this was partly
397 my object in going there. (This last sentence of the witness, commencing with the words "if I had not had any deed," was in answer to the following question: "Was it not partly your object in going to Stamford to get that deed signed?") When we first went to Stamford I went immediately to Jimmie's house; Ogden, I think, went to the hotel. He may have first gone to Jimmie's house and then to the hotel. No, I think Ogden first went to the hotel, and Jimmie sent for him next day. I don't think Ogden was present when I read the deed over to Ralston and his wife. If my memory serves me right, I don't think Jimmy or his wife were at home when I got there; they were out riding, or somewhere else. I staid at the house until they returned. I went there to stop. I don't remember how long I had to wait for their return; not very long. When Ogden and Jimmie and his wife went off to Bridgeport, I may have told Mrs. Ralston I would stay there and take care of the house, but don't remember doing this. I don't know the distance from Stamford to Bridgeport. I don't know how long they were gone to Bridgeport. I think they returned from Bridgeport that evening; and, to the best of my recollection, Ogden went to New York that same evening, and Ralston and wife and I went next morning. Ogden may have gone that evening or the next morning, but I know he did not go with us. My recollection is that Ogden and I got to Stamford in the afternoon, and I think it was next day they went to Bridgeport. I reckon Ralston paid his and his wife's expenses in going from Stamford to New York. I may have done it. After returning from Stamford to New York I am pretty certain I met Ogden, but how long afterwards I don't know. My recollection is that I paid the fee of the Georgia commissioner for

398 witnessing the deed of the 26th of August, 1880. I don't remember whether I paid the fee for witnessing the deed of the the 28th of August, 1880, or not. I have forgotten all about it. I may have paid the fee for the last one or I may have paid for both. I don't remember whether Ralston and wife remained in New York from the time the deed of the 26th of August, 1880, was executed until the deed of the 28th of August was executed or not. I may have written to Ralston that an informality existed in the deed of August 26th, 1880, and asked him to return and execute the deed of August 28th, 1880. I don't remember. At the time the deed of the 28th of August, 1880, was executed I remember that Ralston and wife failed to meet me at the office of the commissioner at the time appointed and apologized for being late. I don't remember whether they said their detention was due to the delay of the train or not. They may have said so. After the deed from Ralston and wife to me, as trustee, was prepared in Macon, Georgia, I sent it to Ralston, I think, enclosed in a letter telling him of the informality of it—what Col. Bacon told me. (This was stated in answer to the following question of complainant's counsel: "After the deed of 19th of April, 1881, was prepared in Macon, Georgia, by Col. Bacon did you not send it to Ralston to be signed in a letter from you?" Complainant's counsel objected to that part of the witness' answer which relates to the contents of the letter enquired about.) I think I have a copy of the letter I wrote. I did not pay Capt. Bacon for preparing the deed of the 19th of April, 1881. I think Ralston died the 4th of July, 1883, and I think I last saw him in the summer of 1882. I don't remember how many times I saw Ralston be-

399 tween the 19th of April, 1881, and his death. It may have been three times, for what I know, or it may have been more. I think Mrs. Smith was in Macon several months before the settlement between her and Ralston and Bozeman took place. The settlement made with Mrs. Smith of her suit against Ralston and Bozeman was that Ralston and Bozeman each paid her one thousand dollars cash and each gave her nine notes of one thousand dollars each, payable at different times and bearing no interest, with the privilege of discounting them at seven per cent. off; and Ralston, in addition, made her a deed to two stores in Macon, to take effect at his death, with the privilege to Ralston's estate to redeem the stores, after death, by paying ten thousand dollars within nine months after that event. This agreement was in writing.

(Counsel for respondent objected to the testimony of the witness in relation to the settlement, it appearing that the settlement was in writing and is the best evidence of the contents.)

(Counsel for respondent further withdraws all evidence brought out on direct examination of the witness in relation to the contents of the contract of settlement.)

(To which counsel for complainant objects.)

Mr. Ralston, when he lived in Macon, was not a frequent visitor at my house. He has been to my house, but very seldom. He visited my family socially very seldom. If he ever called on my

daughter or any of the family it was very seldom. I can't state how many times. He very rarely came to my house. When he came to my house he may have come there to see me or he may have come there to see the family. He saw me at the office very often.
400 I have seen him with my younger children. I have seen one of them riding with him. It may have been little Lizzie, who is dead. I have seen him with the children at the office and on the street. He thought a good deal of the children. Mrs. Smith was here some time before she filed her bill; as much as three or four weeks before.

GEO. B. TURPIN.

Respondent introduced the following deeds: The deeds of Ralston & wife to Turpin, as trustee for his children, dated, respectively, Aug. 26th, 1880, Aug. 28th, 1880, and April 19th, 1881; also the wills of Jas. A. Ralston executed in 1874 and 1879, the originals of all of which are included with this testimony. Messrs. Lanier & Anderson represented Mrs. Smith in the litigation brought by her against Jas. A. Ralston, Jr., and Dr. Bozeman.

J. M. OGDEN testified for respondent:

I was in New York and J. A. Ralston there, too. He met me and asked me to come to his house and meet him. This occurred in August or September. I went there; there was no one present except Ida Blanchard, the present Mrs. Ralston, and himself. He got me at that time to take a memorandum of the various items which appear in the will dated 15th day of December, 1879. He then explained to me particular about Ida's name. In the will is a bequest of some small articles of furniture in a house leased to me by him, and in the contract of lease it was stipulated that the articles were to remain in the house during the term of the lease,
401 which was for five years. I asked him what was to be done with the articles and he said he would sell me the sideboard and leave me the other articles in his will. He gave me the memorandum and told me on my return to Macon to have the will drawn in accordance with and send it on to him. When I returned to Macon, I think, both Bacon & Rutherford were out of town, and I got Mr. Proudfit to draw it and send it on to him. I have not seen it since until this suit was commenced. I went with Mr. Turpin from New York to Stamford, Conn., in 1880. When we got to Stamford we got in a carriage and I left Mr. Turpin at Jimmie's house and I went to the hotel, the Hamilton House, I think it was. I had some near relatives stopping there—a nephew and his wife and children. I think I had been — the summer before and before that summer. When I left Turpin at Jimmie's house I did not see him. I think he and his wife were both out. I did not get out of the carriage. I did not go to Jimmie's house at all until he sent for me or came for me. I think Jimmie came for me himself in a carriage the next morning after we arrived there. Jimmie wanted me to go with him to have a deed signed conveying certain property in Macon to Mr. Turpin, as trustee for his children. He wanted me

to go to Bridgeport with him for this purpose, because he said there was no commissioner of deeds for Georgia in Stamford. He had the information that it was necessary to go to Bridgeport to get the commissioner, for I had no information about it myself. I then went to Jimmie's house and took dinner, and then Jimmie and his wife and myself went to Bridgeport. There we tried to find a commissioner of deeds to witness the paper and
402 failed to do so. We then returned to Stamford and I returned to New York the same evening. Mr. Turpin did not go to Bridgeport with us. I went to New York alone. Before leaving my recollection is I made an agreement to meet them at a certain office in New York the next morning. I met them at the commissioner's office the next morning in New York. When I met them there all the business had been attended to. I went to the commissioner's office simply to meet Mr. Turpin. When I met Jimmie Ralston in Stamford and was requested by him to go with him to Bridgeport and when I again met him in New York he was perfectly sober and rational. I never heard any entreaty or persuasion used to induce Jimmie Ralston or his wife to sign the deed. His going with me was perfectly voluntar*ily*. I was not present when the deed was signed.

Cross-examined by Mr. ANDERSON:

I was not present at Ralston's house when Turpin produced the deed and read it to them and spoke to them about it. I do not know what occurred between Ralston and wife and Turpin from the time I left Turpin at Ralston's house until I went there the next morning. We returned from Bridgeport about three or four o'clock of the same day we went there; it was early enough for me to go to New York the same evening. I was in Stamford about twenty-four hours, less the time *he* took me to go to Bridgeport. I met my nephew and his wife and children at the hotel at Stamford and spent the night with them. I was then a partner of Mr. Turpin's, in business at Macon, Georgia, and have been from that time until now. I have been continuously in partnership with Turpin since
403 about 1869.

J. MONROE OGDEN.

Respondent- further introduced in evidence the following papers, the originals of which are filed with this report:

Deed, dated Jan. 30th, 1882, from Jas. A. Ralston to Ida Ralston. Copy of this deed accompanies report by agreement of counsel instead of original.

2d. Appointment by A. L. Ralston of G. B. Turpin to collect rents Ralston estate.

3d. Agreement entered into June 28th, 1881, between J. A. Ralston, Nathan Bozeman, Laura R. Smith, & children.

4th. Appointment of Turpin as special agent and attorney-in-fact by B. A. Thornton, administrator of Jas. A. Ralston.

5th. Letters of dismission of Geo. B. Turpin as guardian of Jas. A. Ralston & as executor of Aurelia L. Bozeman.

6th. All letters accompanying this report of evidence written by Jas. A. Ralston and Ida Ralston to Geo. B. Turpin and identified by me; also telegram from Grayhill to Turpin identified by me.

Complainant introduced in evidence the original papers filed herewith, of which the following are a memorandum and identified by me.

1st. These letters written by Geo. B. Turpin to Jas. A. Ralston and one written by Geo. B. Turpin to Mrs. Ida Ralston; also a copy of *copy* letter written by Geo. B. Turpin to Jas. A. Ralston.

404 2d. Three affidavits or pledges on part of Ralston to abstain from drinking.

3d. Telegram from Geo. B. Turpin to Ida Ralston.

The foregoing testimony reduced to writing before me, all the witnesses having been duly sworn before the examination & having signed the depositions in my presence. Counsel for both sides agree that the examiner should have until Tuesday, the 26th ——, 1885, in which to file the testimony in office.

JOS. H. HALL, *Examiner.*

Endorsement: In U. S. circuit court, western division, so. dist. of Ga. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Testimony and report of examiner. Filed May 26th, 1885. L. M. Erwin, deputy clerk.

Papers Offered in Evidence by Respondent Before Joseph H. Hall, Examiner.

Deed of August 26th, 1880.

405 STATE OF CONNECTICUT, *Fairfield County:*

This indenture, made this the twenty-sixth day of August, eighteen hundred and eighty, between James A. Ralston, of the county and State aforesaid, of the first part, and George B Turpin, as trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, Lizzie Turpin, and Walter H. Turpin, of the county of Bibb and State of Georgia, of the second part, witnesseth:

That the said James A. Ralston, for and in consideration of the sum of five dollars cash in hand paid to him by the said George B. Turpin, trustee as aforesaid, at and before the signing and delivery of these presents, the receipt of which is hereby acknowledged, hath given, granted, bargained, sold, conveyed, and confirmed, and by these presents doth bargain, grant, sell, convey, and confirm, unto said Geo. B. Turpin, trustee as aforesaid, and his successors in said trust all of the following-described property, to wit: All those lots or parcels of land situate, lying, and being in the city of Macon, county of Bibb, and State of Georgia, and known as Ralston Hall, being at the corner of Cherry and Third streets, in said city, together with the stores and the lots adjoining* on which the same are situated,

and formerly known as numbers sixty-six (66), sixty-eight (68), and seventy (70) Cherry street, the said lots adjoining the said Ralston Hall, and which, at the date of this indenture, are occupied by William F. Grace, J. M. W. Christian, and Felix Corput, the store adjoining the said Felix Corput being now vacant and the stores
406 under said Ralston Hall being now occupied by Johnson & Harris, the property hereby conveyed being all of the property on Cherry street, beginning at and including the store-house occupied by said William F. Grace and running on Cherry street to the corner where said street intersects with Third street, thence along said Third street to the first store adjoining said Ralston Hall, which said store on Third street is not included in this conveyance.

The property hereby conveyed is sold with the condition and understanding that, so long as the said James A. Ralston, party of the first part, shall live, he is to receive annually all of the rents, issues, and profits of said described property, less such expenses as may be incurred in the collection of the same, and such sums as may be paid for repairs, taxes, and insurance; and so soon as the said James A. Ralston shall die, then the aforesaid property, absolutely and in fee simple —, to said George B Turpin, trustee as aforesaid, and his successors. This deed is also made subject to a mortgage, made by said James A. Ralston to William H. Ross, for five thousand dollars on store occupied by W. F. Grace.

To have and to hold said bargained property, with its rights, members, and appurtenances appertaining and belonging, to the only proper use, benefit, and behoof of him, the said George B. Turpin, trustee as aforesaid, his successors, forever in fee simple.

And the said James A. Ralston the said described property unto the said George B. Turpin, trustee as aforesaid, his successors, he will warrant and forever defend against the claim of himself and
407 against the claims of all other persons whatsoever.

In testimony whereof the said James A. Ralston hath hereunto set his hand and affixed his seal the day and year first above written.

JAS. A. RALSTON. [SEAL.]

Signed, sealed, and delivered in presence of—
CHAS. EDGAR MILLS.
WILLIAM D. WARD.

*2d page, word "adjoining" interlined before execution.

STATE OF NEW YORK, } ss:
City and County of New York, }

Be it remembered that on this 26th day of August, A. D. 1880, before me, Charles Edgar Mills, a commissioner of the State of Georgia in New York, residing in the city of New York, personally appeared James A. Ralston, to me personally known to be the individual named in and who executed the foregoing instrument, who acknowledged that he executed the same for the purposes therein named and mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal this 26th day of August, A. D. 1880.

[SEAL.] CHARLES EDGAR MILLS,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

STATE OF CONNECTICUT, *Fairfield County:*

408 Know all men by these presents that I, Ida Ralston, wife of James A. Ralston, of said State and county, do*th*, in consideration of the sum of five dollars cash in hand paid to me by George B. Turpin, trustee, ratify and confirm and do*th* freely and voluntarily give my consent to the execution of the aforementioned deed, of date August 26th, 1880, from said James A. Ralston to said George B. Turpin, trustee for his children, expressed in said deed.

In testimony whereof I have hereunto set my hand and seal this the 26th day of August, 1880.

IDA RALSTON.
—— ——. [SEAL.]

Signed, sealed, and delivered in presence of—
CHAS. EDGAR MILLS.
WILLIAM D. WARD.

STATE OF NEW YORK;
City and County of New York, } *ss:*

Be it remembered that on this 26th day of August, A. D. 1880, before me, Charles Edgar Mills, a commissioner of the State of Georgia in New York, residing in the city of New York, personally appeared Ida Ralston, the wife of James A. Ralston, to me personally known to be the individual named in and who executed the same for the purposes therein named and mentioned.

And the said Ida Ralston, being duly examined by me separately and apart from her said husband, did declare that she did freely and voluntarily and without any compulsion from her husband sign, seal, and deliver the said instrument for the purposes
409 therein mentioned with intention thereby to renounce, give up, and forever quitclaim all her right of dower and thirds and all her other interest of, in, and to the lands and tenements therein mentioned and conveyed.

In witness whereof I have hereunto set my hand and affixed my official seal this 26th day of August, A. D. 1880.

[SEAL.] CHARLES EDGAR MILLS,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

GEORGIA, *Bibb County:*

Sup'r Court.

CLERK'S OFFICE.

Left for record May 21, '85, and recorded in Book "K K," on folios 482, 483, and 484, this May 21st, 1885.

J. W. BLOUNT, *D. Clerk.*

Endorsement: In U. S. circuit court, western division, southern dist. of Ga. Ida Ralston *vs.* Geo. B. Turpin, trustee *et al.* Deed from Jas. A. Ralston to Geo. B. Turpin, trustee. Filed July 6th, 1885. L. M. Erwin, dep. clerk.

Deed of August 28th, 1880.

STATE OF NEW YORK, *County of New York:*

410 This indenture, made the twenty-eighth day of August, in the year one thousand eight hundred and eighty, between James A. Ralston, of the county of Fairfield and State of Connecticut, of the first part, and George B. Turpin, trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, Lizzie Turpin, and Walter H. Turpin, of the county of Bibb, State of Georgia, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of five dollars (and other valuable considerations), lawful money of the United States, to him in hand paid by the said party of the second part at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said party of the second part, his successors, executors, and administrators, forever released and discharged from the same, by these presents hath granted, bargained, sold, aliened, remised, released, conveyed, and confirmed, and by these presents doth grant, bargain, sell, alien, remise, release, convey, and confirm, unto the said party of the second part and to his successors and assigns forever all of those lots or parcels of land situate, lying, and being in the city of Macon, county of Bibb, and State of Georgia, and known as the Ralston Hall Theatre building, situated at the corner of Third and Cherry streets, in said city, together with the lots on Cherry street, and numbered as follows: No. eighty-two (82), occupied by Johnson & Harris; No. eighty-six (86), occupied by Felix Corput; No. eighty-eight (88), occupied by J. M. W. Christian; No. ninety (90), occupied by William F. Grace, and
411 No. eighty-four (84), being now vacant, the said property hereby conveyed being all the property on said Cherry street, beginning at and including the lot on which the store now occupied by said William F. Grace is located and running on Cherry street to the corner where said street intersects with Third street, thence along said Third street to the first store adjoining said Ralston Hall, on 3d street. The property hereby conveyed is sold with the condition that, so long as the said James A. Ralston shall live, he is to

receive the annual rents, issues, and profits of said property, less such expenses as may be incurred in the collection of the same, and amounts that shall be paid for taxes, repairs, and insurance; and so soon as the said James A. Ralston shall die, then the said property shall vest absolutely and in fee simple in said George B. Turpin, trustee aforesaid, and his successors, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest in said property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part of, in, and to the same and every part and parcel thereof, with the appurtenances; to have and to hold the above granted, bargained, and described premises, with the appurtenances, unto the said party of the second part, his successors and assigns, to their own proper use, benefit, and behoof forever.

412 This deed, so far as the property now occupied by William F. Grace is concerned, is subject to a mortgage, made by James A. Ralston to William H. Ross, for five thousand dollars.

And the said James A. Ralston, for his heirs, executors, and administrators, doth covenant, grant, and agree to and with the said party of the second part, his successors and assigns, that the said James A. Ralston is, at the time of the sealing and delivery of these presents, *is* lawfully seized in his own name and right of a good, absolute, and indefeasible estate of inheritance in fee simple of and in all and singular the above granted and described premises, with the appurtenances thereto appertaining and belonging, and has good right, full power, and lawful authority to grant, bargain, sell, and convey the same in manner aforesaid; and that the said party of the second part, his successors and assigns, shall and may at all times hereafter peaceably and quietly have, hold, use, occupy, possess, and enjoy the above-granted premises and every part and parcel thereof, with the appurtenances, without any let, suit, trouble, molestation, eviction, or disturbance of the said party of the first part, his heirs or assigns, or of any other person or persons lawfully claiming or to claim the same; and that the same now are free, clear, discharged, and unincumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments, and incumbrances of what nature or kind soever, except as hereinbefore expressed.

413 And also that the said party of the first part, and for his heirs and all and every person or persons whomsoever lawfully or equitably deriving any estate, right, title, or interest of, in, or to the hereinbefore-granted premises by, from, under, or in trust for them, shall and will at any time or times hereafter, upon the reasonable request and at the proper costs and charges in the law of the said party of the second part, his successors and assigns, make, do, and execute, or cause to be made, done, or executed, all and every such further and other lawful and reasonable acts, conveyances, and assurances in the law for the better and more effectually vesting and confirming the premises hereby granted or so intended to be in

and to the said party of the second part, his successors and assigns, forever, as by the said party of the second part, his successors or assigns, or their counsel learned in the law shall be reasonably advised or required; and the said James A. Ralston, for himself and his heirs, the above described and hereby granted and released premises and every part and parcel thereof, with the appurtenances, unto the said party of the second part, his successors and assigns, against the said party of the first part and his heirs and against all and every person and persons whomsoever lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

In witness whereof the said party of the first part has hereunto set his hand and seal the day and year first above written.

414 JAS. A. RALSTON. [L. S.]

Signed, sealed, and delivered in the presence of—
A. PROUDFIT.
CHAS. EDGAR MILLS.

All erasures and interlineations made before signing and sealing.
CHAS. EDGAR MILLS.
A. PROUDFIT.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 28th day of August, A. D. 1880, before me, Charles Edgar Mills, a commissioner of the State of Georgia in New York, presiding in the city of New York, personally appeared James A. Ralston, to me personally known to be the individual named in and who executed the foregoing instrument, who acknowledged that he had executed the same for the purposes therein named and mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal this 28th day of August, A. D. 1880.

[SEAL.] CHARLES EDGAR MILLS,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

GEORGIA, *Bibb County:*

Superior Court.

CLERK'S OFFICE.

Filed for record Sept. 13th, 1880, and recorded Sept. 13, 1880, in Book "B B," folios 662, '3.

A. B. ROSS, *Clerk.*

Exemplification.

415 STATE OF NEW YORK, *County of New York:*

Know all men by these presents that I, Ida Ralston, wife of James A. Ralston, do*th*, in consideration of the sum of five dollars cash in

hand paid to me by George B. Turpin, trustee, mentioned in a deed this day made to him by my husband, James A. Ralston, *doth* ratify and confirm and do*th* freely and voluntarily give my consent to the conveyance of the property mentioned in said deed.

In testimony of which I have hereto set my hand and seal this the 28th day of August, 1880.

IDA RALSTON. [L. S.]

Signed, sealed, and delivered in the presence of us—
A. PROUDFIT.
CHAS. EDGAR MILLS.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 28th day of August, A. D. 1880, before me, Charles Edgar Mills, a commissioner of the State of Georgia in New York, residing in New York city, personally appeared Ida Ralston, the wife of James A. Ralston, to me personally known to be the individual named in and who executed the foregoing instrument, who acknowledged that she exec-ted the same for the purposes therein named and described; and the said Ida Ralston, being duly examined by me separately and apart from her said husband,
416 did declare that she did, freely and voluntarily and without any compulsion from her said husband, sign, seal, and deliver the said instrument for the purposes therein mentioned, with intention thereby to renounce, give up, and forever quitclaim all her right of dower and thirds and all her other interest of, in, and to the lands and tenements therein mentioned and conveyed.

In witness whereof I have hereunto set my hand and affixed my official seal this 28th day of August, A. D. 1880.

[SEAL.] CHARLES EDGAR MILLS,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

GEORGIA, *Bibb County:*

Sup'r Court.

CLERK'S OFFICE.

Filed for record Sept. 13th, 1880, and recorded Sept. 13th, 1880, in Book "B B," folio 664.

A. B. ROSS, *Clerk.*

Endorsement: U. S. circuit court, western division, so. dist. of Georgia. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Deed. Filed in U. S. circuit court this July 6th, 1885. L. M. Erwin, deputy clerk.

Deed of April 19th, 1881.

417 STATE OF NEW YORK, *County of New York:*

This indenture, made the 19th day of April, eighteen hundred and eighty-one, between Jas. A. Ralston, of the county of Fairfield and State of Connecticut, of the first part, and George B. Turpin, trustee, of the county of Bibb and State of Georgia, of the second part, witnesseth:

That the said Jas. A. Ralston, for and in consideration of the love and affection which he bears to the said George B. Turpin and to his children hereinafter mentioned, as well as in consideration of the valuable aid and assistance which he has received from the said George B. Turpin during a long series of years in his personal and business affairs, as well as in consideration of the sum of five dollars in hand paid by the said George B. Turpin at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, and conveyed, and doth by these presents grant, bargain, sell, and convey, unto the said George B. Turpin, trustee, and to his successors in said trust and to his assigns, duly authorized, all those lots or parcels of land situate, lying, and being in the city of Macon, county of Bibb and State of Georgia, being parts of lots (7) seven and (8) eight, in square (39) thirty-nine, of said city of Macon, and fronting on Cherry and Third streets, and bounded as follows: Beginning at a point on Cherry street (133) one hundred and thirty-three feet from the corner of Cherry and Third streets (said point being the dividing line between said conveyed property and the property now owned and occupied by E. Witkowski), a line running southeasterly
418 along the line of said property and Cherry street (133) one hundred and thirty-three feet to the corner of Cherry and Third streets; thence in a southwesterly direction along the line of said premises and Third street to a point on said line (96) ninety-six feet from the corner of Cherry and Third streets; thence in a northwesterly direction to a point (109) one hundred and nine feet and (6) six inches from Third street and (96) ninety-six feet from Cherry street; thence southwesterly to a point (109) one hundred and nine feet and (6) six inches from Third street and (112) one hundred and twelve feet from Cherry street; thence northwesterly (23) twenty-three feet and (6) six inches to a point on said dividing line between the said conveyed premises and the said premises of E. Witkowski (112) one hundred and twelve feet from the original starting point; thence along said dividing line northeasterly (112) one hundred and twelve feet to the original starting point. That portion of the property hereby conveyed which adjoins the property of the said E. Witkowski, fronting on Cherry street (23) twenty-three feet and (6) six inches and running back (112) one hundred and twelve feet, is subject to a mortgage made by James A. Ralston to Wm. H. Ross for (5,000) five thousand dollars.

To have and to hold the said bargained and described premises, together with all and singular the buildings, tenements, heredita-

ments, and appurtenances belonging or in anywise appertaining, unto the said George B. Turpin, his successors and lawful assigns, in fee simple.

In trust, nevertheless, for the sole and separate use, benefit, and enjoyment of the following-named children of the said George
419 B. Turpin, viz: William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, without liability for the contracts, undertakings, or defaults of the said George B. Turpin or of any other person whomsoever:

Provided, nevertheless, That so long as the said James A. Ralston shall live he shall, by himself or through his duly authorized agents, retain possession of said property and shall receive and enjoy the annual rents, issues, and profits of the same, less such expenses as may be incurred in the collection of the same and less the amounts that shall be paid for taxes, insurance, and repairs on said property, the meaning and intent of this deed of conveyance being that there is hereby conveyed to the said George B. Turpin, trustee as aforesaid, full and perfect title in fee simple to said property at this present date, but the possession of the said George B. Turpin, trustee, and of his said *cestui que trusts* is postponed, as well as the right to the income from the same, until the death of the said James A. Ralston.

And the said James A. Ralston, for himself, his heirs, executors, and administrators, the above described and conveyed premises and every part and parcel thereof, with all the appurtenances thereunto belonging, unto the said George B. Turpin, trustee, his successors and assigns, against the said James A. Ralston, his heirs, executors, and administrators, and against the claim of all and every person or persons whomsoever, shall and will warrant and forever defend by virtue of these presents.

In witness whereof the said James A. Ralston hath hereunto set his hand and affixed his seal the day and year first above written.

420 JAS. A. RALSTON. [L. S.]

Signed, sealed, and delivered in the presence of Horace E. Jones and William H. Clarkson, as witness my hand and official seal this 19th day of April, 1881, *as witness my hand and official seal.*

WILLIAM H. CLARKSON,
Commissioner for Georgia in New York.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 19th day of April, A. D. 1881, before me, William H. Clarkson, a commissioner of the State of Georgia in New York, residing in the city of New York, personally appeared James A. Ralston, to me personally known to be the individual named in and who executed the foregoing instrument, who acknowledged that he executed the same for the purposes therein named and mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal this 19th day of April, A. D. 1881.

[SEAL.] WILLIAM H. CLARKSON,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

421 STATE OF NEW YORK, *County of New York:*

Know all men by these presents that I, Ida Ralston, wife of James A. Ralston, do, in consideration of five dollars cash in hand paid me by George B. Turpin, trustee, as well as in consideration of *of* the premises recited in a deed of conveyance this day made by the said Jas. A. Ralston to the said George B. Turpin, trustee, to certain portions of lots (7) seven and (8) eight, in square (39) thirty-nine, in the city of Macon, county of Bibb and State of Georgia, *do* hereby ratify and confirm the said deed of conveyance and do hereby join in the execution of the same, hereby renouncing and conveying to the said trustee, for the said uses, all my right of dower and other right, title, or interest in and to said property.

In testimony whereof I have hereunto set my hand and affixed my seal this nineteenth day of April, eighteen hundred and eighty-one.

IDA RALSTON. [L. S.]

Signed, sealed, and delivered in presence of Horace E. Jones and William H. Clarkson, as witness my hand and official seal this 19th day of April, 1881, *as witness my hand and official seal.*

[SEAL.] WILLIAM H. CLARKSON,
Commissioner for Georgia in New York.

422 STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 19th day of April, A. D. 1881, before me, William H. Clarkson, a commissioner of the State of Georgia in New York, residing in the city of New York, personally appeared Ida Ralston, to me personally known to be the individual named in and who executed the foregoing instrument, who acknowledged that she executed the same for the purposes therein named and mentioned; and the said Ida Ralston, being duly examined by me seperately and apart from her said husband, did declare that she did freely and voluntarily and without any compulsion from her husband sign, seal, and deliver the said instrument for the purposes therein mentioned with intention thereby to renounce, give up, and forever quitclaim all her right of dower and thirds and all her other interest of, in, and to the lands and tenements therein mentioned and conveyed.

In witness whereof I have hereunto set my hand and affixed my official seal this 19th day of April, A. D. 1881.

[SEAL.] WILLIAM H. CLARKSON,
Commissioner for Georgia in New York,
117 *Broadway, N. Y. City.*

GEORGIA, *Bibb County:*

Sup'r Court.

CLERK'S OFFICE.

Left for record April 25th, 1881, and recorded in Book "E E," folios 94, 95, 96, and 97, April 25th, 1881.

J. W. BLOUNT, *D. Clerk.*

423 Endorsement: U. S. circuit court, western division, southern district of Georgia. Ida Ralston *vs.* George B. Turpin, trustee, *et al.* Filed in U. S. circuit court this 6th day of July, 1885. L. M. Erwin, dep. clerk.

Will of May 11th, 1874.

In the name of God, amen. I, James A. Ralston, of the county of Bibb and State of Georgia, being in good bodily health and of sound and disposing mind and memory, and being desirous to settle my worldly affairs while in said state of mind and body, I have the strength and discrimination so to do, do make, ordain, and publish this my last will and testament, hereby revoking and annulling all wills by me at any time heretofore made.

Item 1. I direct that my body be properly buried, and that a monument suitable to my condition and circumstances in life be erected over the same, and I request that my friend, George B. Turpin, and his children after him will see to it that my monument and grave shall always during their lives be suitably kept and cared for.

Item 2d. My just and lawful debts contracted since my majority I direct shall be paid as soon as practicable after my death by my hereinafter-named executors.

Item 3d. The entire balance and remaining portion of my
424 property I will and desire shall be divided into two equal portions, which I will and bequeath for the trusts and uses hereinafter specified. In making such division I desire that my property shall be divided in kind and that none of it be sold, except such part of the same as it may be necessary to sell for the purpose of equalizing said *said* division. The one equal part I give and bequeath and devise to George B. Turpin, of said county of Bibb, to be held by him in trust for the sole benefit and use of my aunt, Mrs. Laura R. Smith, and her children, James R. Smith, Annie L. Smith, Daisy Smith, and Charles Smith, during the natural life of the said Mrs. Laura R. Smith and after death for the joint and sole use and benefit of the said James R. Smith, Annie L. Smith, Daisy Smith, and Charles Smith during the life of him or her who shall longest survive, and upon the death of the last survivor said trust shall cease and said property shall vest in the heirs-at-law of Mrs. Laura R. Smith; but during the continuance of said trust, as either the said James R. Smith, Annie L. Smith, Daisy Smith, or Charles Smith shall die, his or her heirs-at-law shall be substituted in said use and

enjoyment of said trust in his or her stead. The other equal part of my property herein provided for I give and bequeath and devise to George B. Turpin, of said county of Bibb, to be held by him in trust for the sole benefit and use of the said George B. Turpin and his children, born and to be born, for and during the natural life of the said George B. Turpin, and at his death said trust to cease and the said property vest in the children of the said George B. Turpin who shall be in life at the time of his death, the descendants of any such children not then in life to share in such division
425 per stirpes, it being the intention and design of this my will that in all the divisions provided for in each of said trusts (the one for the benefit of Mrs. Laura R. Smith and her children as well as the one for the benefit of George B. Turpin and his children) the descendants and heirs of children shall take per stirpes, and it being the further intent and design of this my will that during the continuance of each of said trusts there shall be no division or sale of the property embraced in said trust, and that said property shall not be liable for the contracts, debts, or defaults of any of said *cestui que trusts* or of any other person whomsoever.

Item 4th. I hereby constitute and appoint George B. Turpin and J. Monroe Ogden my executors of this my last will and testament.

In witness whereof I, the said James A. Ralston, to this my will and testament, the same being my last and consisting of the foregoing three pages, have, in the presence of the subscribing witnesses, set my hand and seal this (11) eleventh day of May (1874), eighteen hundred and seventy-four, the name Smith on the second page, between the sixteenth and seventeenth lines of the same, having been interlined before the said signing, sealing, and publishing of the same.

JAS. A. RALSTON. [L. S.]

Signed, sealed, published, and declared at the city of Macon, Georgia, by the above-named James A. Ralston as his last will and testament in the presence of us, who, at his request, each in the presence of said testator and in the presence of each of the
426 other, have subscribed our names as witnesses hereto this (11) eleventh day of May (1874), eighteen hundred and seventy-four.

J. MONROE OGDEN.
JAMES T. NISBET.
A. O. BACON.
ALECK BLOCK.

Filed in U. S. circuit court, western division, southern dist. of Ga., July 6th, 1885.

L. M. ERWIN, *Dep. Clerk.*

Will of December 15th, 1879.

STATE OF NEW YORK, *City and County of New York:*

I, James A. Ralston, being of sound, disposing mind and memory, and being fully aware of the uncertainty of life, and desiring to dispose of all the property of which I may die seized and possessed, doth make, publish, and declare the following as my last will and testament, hereby revoking and annulling all other wills heretofore made by me.

Item 1st. First, I desire that all of my just debts be paid.

Item 2d. Second, I desire that my body be buried in a suitable and Christian-like manner in Rose Hill cemetery, Macon, Ga.,
427 and that a marble monument, not to exceed in cost the sum of one thousand dollars ($1,000), shall be erected on the spot where marks the place of my last repose in the family burying ground.

Item 3d. Third, I give and bequeath unto Geo. B. Turpin, of the city of Macon, Bibb county, Georgia, in trust for his children, Wm. C. Turpin, Frank M. Turpin, George R. Turpin, Lizzie Turpin, and Walter H. Turpin, all of the following-described property, to wit: The entire building known as Ralston Hall, situated at the corner of Cherry and Third streets, Macon, Ga., together with the stores which adjoins the said theatre building and known as numbers sixty-six (66), sixty-eight (68), and seventy (70), subject only to such liens and incumbrances as may be created thereon during my lifetime.

Item 4th. Fourth, I give and bequeath unto Ida Blanchard, by which name she is now known and whose original name was Sarah or Sally J. Harten, formerly of Philadelphia, Pa., all of the following-described property, to wit: The four (4) stores fronting on Third street, Macon, Georgia, beginning at and including the first store adjoining said theatre building, said four stores being numbered, respectively, as follows: Number fifty-three (53), number fifty-five (55), number fifty-nine and sixty-one Third street, No. fifty-seven (57) being the entrance to the theatre on 3d St., and is also included. I also give to said Ida all of my wat-hes and jewelry of every
428 description and of which I may die seized and possessed of.

Item 5th. Fifth, I give and bequeath unto my aunt, Mrs. Laura R. Smith, for and during the term of her natural life and at her death to her children, James R. Smith, Annie Smith, Daisy Smith, and Charles Smith, in fee simple all of my undivided one-half interest in the premises known as the Ralston mansion house, situated in said city of Macon, Georgia.

Item 6th. Sixth, I give and bequeath unto my grandmother, Mrs. Mary Ann Lamar, all of the family pictures of which I die seized and possessed for and during her natural life and at her death to my friend, Geo. B. Turpin, of Macon, Ga., having enjoyed his friendship for a long course of years. I feel that they will be safe and kept intact in his hands.

Item 7th. Seventh, I give and bequeath unto my friend, J. Monroe Ogden, of the city of Macon, Ga., all of the household furniture of every description whatever* now owned by me and at present in the Ralston mansion house, in the city of Macon, State of Georgia.

Item 8th. Eighth, I hereby constitute and appoint as executors of this my last will and testament my friends, J. Monroe Ogden and Thomas L. Massenburg, of Macon, Ga., and I desire that the necessity of making an inventory and returns to the courts where this will is to be operate shall be dispensed with.

429 This the 15th day of December, 1879.

JAS. A. RALSTON.

STATE, COUNTY, AND CITY OF NEW YORK:

Signed, sealed, declared, and published by James A. Ralston as his last will and testament in the presence of us, the undersigned, who subscribed our names hereto in the presence of said testator at his special instance and request and in the presence of each other this the 15th day of December, 1879, *the words " and of which I may die seized and possessed " being first stricken out in item 7th of said will and the words " now owned by me and at present in the Ralston mansion house, in the city of Macon, State of Georgia," interlined in the place and stead of the said words stricken out before execution.

H. HORNE, *Macon, Ga.*
HORACE E. JONES,
756 Broadway, N. Y.
JAS. EDW'D GRAHILL,
Atty-at-Law, 317 *Broadway, N. Y.*

Filed in U. S. circuit court July 6th, 1885.

L. M. ERWIN,
Dep. Clerk.

Copy of Deed of January 30th, 1882.

STATE OF NEW YORK, *New York County:*

430 This indenture, made the 30th day of January, in the year of our Lord one thousand eight hundred and eighty-two, between Jas. A. Ralston, of the State and the county of New York, of the one part, and Ida Ralston, his wife, of the State and the county of New York, of the other part, witnesseth: That the said James A. Ralston, for and in consideration of the transfer of the contingent interest in Ralston house hereinafter mentioned, and in further consideration of ten thousand dollars in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed, and confirmed, and by these presents do- grant, bargain, sell, alien, convey, and confirm, unto the said Ida Ralston, heirs and assigns, all those tracts or parcels of land situate, lying, and being in the city of Macon, county of Bibb, State of Georgia, and being part of lot # 8,

in square 39, in the city of Macon, to wit: The second store and the land on which it is situated, on the north of the alley running along the southern boundary of said lot (8) eight, fronting twenty-two (22) feet on Third street and running back the same width one hundred feet and nine inches, it being the store now occupied by A. B. Farquhar & Co., and also the third store on the north of said alley and the land on which the same is situated, adjoining the store-house and lot already described, fronting on Third street 27 feet and running back the same width one hundred feet and nine inches, it being the store now occupied by P. Fitzgerald. This conveyance, in so far as it concerns the said store occupied by P. Fitzgerald and the
431 land on which the same is situated, is made in accordance with the agreement of the said Jas. A. Ralston and Ida Ralston and of the decree in Bibb superior court, State of Georgia, transferring to said store and to said lot the contingent interest of the wife or child or children of the said Jas. A. Ralston in the residence lot in the city of Macon, commonly known as the Ralston lot, which, by authority of said decree and consent of all parties, has been sold to J. M. Johnston:

To have and to hold the said bargained premises, with all and singular the rights, members, and appurtenances thereunto appertaining, to the only proper use, benefit, and behoof of her, the said Ida Ralston, her heirs, executors, administrators, and assigns, in fee simple; and the said James A. Ralston the said bargained premises unto the said Ida Ralston, heirs, executors, administrators, and assigns, against the said James A. Ralston, his heirs, executors, and administrators, and against all and every other person or persons will warrant and forever defend by virtue of these presents.

In witness whereof the said James A. Ralston has hereunto set his hand, affixed his seal, and delivered these presents the day and year first above written.

JAS. A. RALSTON.

Signed, sealed, and delivered in presence of us—
JNO. M. DOBBS.
CHARLES NETTLETON,
Commissioner for Georgia in New York.

Identified as offered in evidence by respondent.
JOS. H. HALL, *Examiner.*

432 Filed July 6th, 1885.
L. M. ERWIN,
Dep. Clerk U. S. Circuit Court.

Power of Attorney by A. L. Ralston to Geo. B. Turpin.

STATE OF GEORGIA, *Bibb County:*

George B. Turpin is hereby authorized to rent and collect rents of the estate of James A. Ralston, deceased.

A. L. RALSTON.

Identified as introduced in evidence.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Dep. Clerk.

Agreement of Ralston & Bozeman et al. for Decree.

In the Superior Court of Bibb County, State of Georgia.

Mrs. LAURA R. SMITH and Others

vs.

JAMES A. RALSTON, NATHAN BOZEMAN, *et al.*

Bill in equity.

433 Whereas on the 26th day of April, in the year eighteen hundred and eighty-one, the said complainants, Laura R. Smith and her four children, to wit, James R. Smith, Annie Smith, Daisy Chase (formerly Smith), and Charles E. Smith, all of whom are twenty-one years of age and of the State of New York, filed in the said superior court of Bibb county their bill against James A. Ralston, Jr., Nathan Bozeman, *et al.*, returnable to the October term, 1881, of said superior court, which said bill is still pending and undisposed of in said court:

Now, for the full settlement of all matters set up in said bill, as well as for the full and complete settlement of all claims of the said complainants, and of each of them, and of every and all persons in any manner now or hereafter claiming under, through, or by the said complainants, or either of them, against or under the several estates of the said David Ralston, James A. Ralston, Sr., Mrs. Aurelia Bozeman, and Jno. T. Smith, or the representatives, heirs, devisees, legatees, and assigns of the said several estates, as well as against the said James A. Ralston, Jr., and the said Nathan Bozeman, either on their own account or on account of the said several estates or on account of property received by either James A. Ralston, Jr., or Nathan Bozeman from or through either of the said several estates or on account of any property heretofore belonging or alleged to belong to either of the said several estates, as well as for the most perfect, full, complete, and final settlement of any and all rights, claims, and demands of the said complainants, and each of them, and of all
434 persons now or hereafter claiming under and through them, the said complainants, against the said James A. Ralston, Jr., and Nathan Bozeman, as well as against all persons claiming under or through the said James A. Ralston, Jr., and Nathan Bozeman on any account whatsoever and by virtue of any and all rights and interests of any and every kind and description, this agreement is hereby entered into and concluded by and between the said complainants, Laura R. Smith, James R. Smith, Annie Smith, Daisey Chase, and Charles E. Smith, jointly and severally, of the one part,

and the said defendants, James A. Ralston, Jr., and Nathan Bozeman, jointly and severally, of the other part:

First. The said James A. Ralston, Jr., now signing himself James A. Ralston, will pay to the said Mrs. Laura R. Smith, for herself and her said children, the said complainants, the sum of one thousand dollars in cash on the day of the full and complete execution of this agreement by the proper signatures, under seal, of each and all the parties thereto, and will execute and deliver to the said Mrs. Laura R. Smith, for herself and her said children, the said complainants, his nine (9) promissory notes, payable to the order of Mrs. Laura R. Smith, in the sum of one thousand dollars each, and due, without interest, respectively, at one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), and nine (9) years; said promissory notes to be secured as follows: The first five of the said notes are to be secured by a deed of mortgage, to be duly executed and delivered by the said James A. Ralston, Jr., to the said Laura R. Smith, to the two-
story brick store-house fronting on Third street, in the city of
435 Macon, in said Bibb county, now occupied by Philip Fitzgerald, and being on parts of lots numbers seven and eight (7 & 8), in square thirty-nine (39), in the plan of said city, and the remaining four of said promissory notes to be secured by a like mortgage, to be executed in like manner by said James A. Ralston, Jr., on the two-story brick store-house adjoining the one last described and now occupied by A. B. Farquhar, the same being also situated on parts of lots seven and eight (7 & 8), in said square thirty-nine (39), and fronting on said Third street, in said city of Macon, in each instance. The land on which said store-house is situated is to be included in and more fully described in the said deed of mortgage.

Second. The said Nathan Bozeman will pay to the said Mrs. Laura R. Smith, for herself and her said children, the said complainants, the sum of one thousand dollars in cash on the day of the full and complete execution of this agreement by the proper signature under the seal of each and all the parties thereto, and will execute and deliver to the said Mrs. Laura R. Smith, for herself and her children, the complainants, his nine (9) promissory notes, payable to the order of the said Laura R. Smith, in the sum of one thousand dollars each, and due, without interest, respectively, at one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), and nine (9) years, said promissory notes to be secured as follows: The first three (3) of said notes are to be secured by a deed of mortgage, to be duly executed and delivered by the said Nathan Bozeman to
the said Mrs. Laura R. Smith, to the two-story brick house —
436 store fronting on Third street, in the city of Macon, in the said county of Bibb, now occupied by S. S. Dunlop, the same having a store front and being on parts of lots numbered five and six (5 & 6), in square thirty-eight (38), in the plan of said city of Macon, and the remaining six of said promissory notes to be secured by a like mortgage, to be executed by said Nathan Bozeman, on the two-story brick store-house now occupied by W. R. Cox & Co., the same having a store front and being also situated on said parts of

lots five and six (5 & 6), in said square thirty-eight (38), in each instance. The land on which said store-house is situated is to be included in and more fully described in said deed of mortgage.

Third. The said James A. Ralston, Jr., with the consent of his wife, Ida Ralston, will execute and deliver to the said Mrs. Laura R. Smith, James R. Smith, Annie Smith, Charles E. Smith, and Daisy Chase a warranty deed in fee to and for those two parcels of land situate in said city of Macon, in said Bibb county, known as parts of lots numbers seven and eight (7 & 8), in square thirty-nine, upon each of which there is a two-story brick store, one of which is now occupied by M. Elkan and the other by W. J. Havens as tenants, the said James A. Ralston, Jr., reserving the enjoyment and control of the rents, issues, and profits derived from the said two stores during his life, with right to his legal representatives to repurchase said two stores within nine months after his death for the sum of ten thousand dollars, as more fully expressed in the said
437 deed so executed by the said James A. Ralston, Jr.

Fourth. The said complainants, Mrs. Laura R. Smith, James R. Smith, Annie Smith, Daisy Chase, and Charles E. Smith accept the said cash payments, the said promissory notes and the mortgages to secure the same, and the said warranty deed from the said James A. Ralston, Jr., and the said Nathan Bozeman, respectively, in full settlement of all matters set up in said bill in equity, and as a full and complete settlement and discharge of all claims of the said complainants, and of each of them, and of every and all persons in any manner now or hereafter claiming under, through, or by the said complainants, or either of them, against, through, or under the several estates of the said David Ralston, James A. Ralston, Mrs. Aurelia Bozeman, and John T. Smith, or the representatives, heirs, devisees, legatees, and assigns of the said several estates, as well as against the said James A. Ralston, Jr., and the said Nathan Bozeman, or either of them, either on their account or on account of the said several estates, or either of them, or on account of any property heretofore or hereafter received by either the said James A. Ralston, Jr., or the said Nathan Bozeman from or through the said several estates, or either of them, or on account of any property heretofore belonging or alleged to belong to either of the said several estates; and also in the most perfect, full and complete, final and irrevocable, settlement of any and all rights, claims, and demands of the said complainants, and each of them, and of all persons now or
438 hereafter claiming under and through them, the said complainants, against the said James A. Ralston, Jr., and Nathan Bozeman, as well as against all persons claiming under or through the said James A. Ralston, Jr., and Nathan Bozeman, or either of them, on any account whatsoever, and by virtue of any and all right and interests of any and every kind and description; and, further, the said Laura R. Smith, James R. Smith, Annie Smith, Charles E. Smith, and Daisy Chase will accept the said warranty deed aforesaid in full payment and discharge of any and all right, title, and interest that they now have or may hereafter have, either contingent or otherwise, under the will of said Mrs. Aurelia Bozeman or other-

wise, in and to the said property in said city of Macon commonly known as the Ralston residence lot, so that neither the said Mrs. Laura R. Smith and her said children nor any person claiming under them shall hereafter have any right, title, or interest in said property or any part thereof or the proceeds thereof.

Fifth. It is further agreed by the said Nathan Bozeman that he will, as soon as this agreement is executed as aforesaid, execute and deliver, in favor of said Laura R. Smith and her said children, the said complainants, a quitclaim deed to lots numbers seven and eight (7 & 8), in square number fifty-nine (59), in the plan of said city of Macon, being the same lots George B. Turpin, as executor of the last will and testament of the said Mrs. Aurelia Bozeman, purchased of the said Nathan Bozeman, and which now belong to said Laura R. Smith and her said children.

439 Sixth. The said undertakings of the said James A. Ralston, Jr., and of the said Nathan Bozeman for the payment of said sums of money, the making of said promissory notes and mortgages, and for the execution of said deed by said James A. Ralston, Jr., and said quitclaim deed by said Nathan Bozeman are, respectively, several undertakings and obligations by the said James A. Ralston, Jr., and Nathan Bozeman, neither of said parties being in any manner responsible for the performance of the undertakings and obligations of the other.

Seventh. The said James R. Smith, Annie Smith, Daisy Chase, and Charles E. Smith hereby consent to the payment of said cash payment and of the said promissory notes by the said James A. Ralston, Jr., and said Nathan Bozeman to the said Mrs. Laura R. Smith, or to her order, in as full and complete discharge of all liability for the same as if said payments were made *pro rata* to each of the said complainants.

Eighth. In case either the said James A. Ralston, Jr., or the said Nathan Bozeman shall desire to pay in bulk at any time the said promissory notes herein agreed to be given by them, respectively, before they shall fall due, interest on the said notes, the payments of which are so anticipated at the rate of seven per cent. per annum, being the legal interest of the State of Georgia, shall be deducted from the face of said notes for and during the time the said notes are paid before maturity.

Ninth. The said James A. Ralston, Jr., and Nathan Bozeman distinctly deny all allegations in said bill reflecting in
440 any manner upon the integrity and good faith of the said James A. Ralston, Sr., and of the said Mrs. Aurelia Bozeman, and the said complainants in said bill disclaim any intent to reflect on the character of the said James A. Ralston, Sr., and Mrs. Aurelia Bozeman, deceased.

Tenth. This agreement of settlement is to be entered as the decree of the court in said cause, in said Bibb superior court, of the said Laura R. Smith and her said children, the complainants, against the said James A. Ralston, Jr., and Nathan Bozeman *et al.*, the defendants, but said decree is not to be taken and construed as creating any lien upon the property of the said defendants for the payment

of the said promissory notes herein provided for or of the said mortgages given to secure the same, the only liens provided for in this settlement being those specifically created by the said mortgages; and all the parties to the said bill, both complainants and defendants, hereby consent and agree that the return term of said bill, to wit, the October term, 1881, of said superior court, may and shall be taken as the trial term of said cause, and that this decree shall then be entered and taken as the final decree and judgment of the court in the same.

Witness our hands and seals this 28th day of June, A. D. eighteen hundred and eighty-one.

LAURA R. SMITH. [L. S.]
JAS. R. SMITH. [L. S.]
ANNIE L. SMITH. [L. S.]
441 DAISY CHASE. [L. S.]
CHAS. E. SMITH. [L. S.]
JAS. A. RALSTON. [L. S.]
NATHAN BOZEMAN. [L. S.]

Signed, sealed, and acknowledged in presence of—
CHAS. EDGAR MILLS.
[SEAL.] CHARLES NETTLETON,
Commissioner for Georgia in New York.

Witness my official seal.

Identified as introduced in evidence before me.
J. H. HALL, *Examiner.*

Endorsements: U. S. circuit court, western division, so. dist. Ga. Agreement for decree. Filed July 6th, 1885. L. M. Erwin, dep. clerk.

Power of Attorney from B. A. Thornton to Geo. B. Turpin.

STATE OF GEORGIA, *Bibb County:*

Know all men by these presents that I, B. A. Thornton, administrator — James A. Ralston, deceased, have made, constituted, and appointed Geo. B. Turpin my lawful agent and special attorney for me and in my stead to rent out and collect the rents due the estate of said Ralston, in the city of Macon, and to sign my name to all receipts for rent now due or that may become due, hereby ratifying and confirming whatever the said Turpin may legally do in the premises.

442 This Jan'y 10th, 1865.

B. A. THORNTON,
Adm'r J. A. Ralston.

Signed, sealed, and delivered in the presence of—
J. V. V. BURNETT, *J. P.*
ROB'T A. CRAWFORD.

Identified.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN, *D'p. Clerk.*

Certified Copy Order Appointing and Returns of Geo. B. Turpin, Guardian of J. A. Ralston.

GEORGIA, *Bibb County:*

By the honorable ordinary of said county to George B. Turpin, Greeting:

Whereas James A. Ralston, orphan of James A. Ralston, is possessed in his own right of considerable estate, by means whereof the power of granting the guardianship of said orphan to me is manifestly known to belong, and for the better securing the estate and more ample
443 maintenance and education of said orphan, and from the integrity and confidence reposed in you, I do hereby commit the tuition, education, and guardianship of the said orphan to you, the said George B. Turpin (you assenting thereto by the acceptance of these letters), herein charging you that you maintain him in meat, drink, clothing, and lodging; that you cause him to be educated in such manner as shall be suitable to his interest and circumstances, and that you enquire into and take charge of his estate, both real and personal, and all other things do which by law you ought to do for your ward, a true and perfect account of all which you shall render to the court of ordinary of the said county on the first term in every year during your continuance in office; and I do hereby constituted and appoint you, the said George B. Turpin, guardian of the said orphan during his minority.

In testimony whereof I have hereto officially set my hand and seal this 2d day of August, 1867.

W. M. RILEY, *Ordinary.* [SEAL.]

444 *Returns of George B. Turpin, Guardian James A. Ralston, Minor, Orphan J. A. Ralston, Deceased.*

1st quarterly rent, ending January 1–4, 1868.

1.	W. A. Huff	700 00
2.	Porter & Hudgins	375 00
3.	Porter & Hudgins	350 00
4.	Fitzgerald & Carrol	375 00
5.	C. G. Wheeler	375 00
6.	F. M. Long	375 00
7.	W. G. Harris	375 00
8.	L. W. Rasdell	350 00
9.	L. W. Rasdell & Co.	375 00
	Havens & Brown	225 00
	T. W. Ellis	225 00
	Miss E. Ward & Sister	225 00
	C. H. Baird	225 00
	C. Price	225 00

Rooms:

	W. L. Lightfoot	30 00
	Dr. A. P. Collins	30 00
	Dr. F. G. Cartlen	30 00
	L. W. Rasdell	27 00
	L. W. Rasdell	30 00
	J. T. Brown	27 00
	Mechanics' B. & Loan A.	24 00
	Doc. Robertson	24 00
	Rose & Burr	225 00
	Simmons & Bacon	31 00
445	Woodruff & Bro.	25 00

Hall rent:

Oct.	1.	5 nights, @ $25	125 00
		4 " " $16.65	66 60
	11.	1 "	10 00
	12.	1 "	10 00
Nov.	27.	4 "	100 00

2 quarter's rents, ending —:

1868.			
Jan'y	1.	W. A. Huff	700 00
	2.	Porter & Hudgins	375 00
	3.		350 00
	4.		375 00
	5.		
	6.		250 00
	7.		375 00
	8.		350 00
	9.		375 00
	10.		
	11.		225 00
	12.		225 00
			225 00
			225 00
		Forward	$9,639 85

446	Room rent:	
	W. T. Lightfoot	
	Dr. A. P. Collins	30 00
	Dr. F. G. Cartlen	30 00
	L. W. Rasdell	27 00
	L. W. Rasdell & Co.	30 00
	Jno. T. Brown	27 00
	Mechanics' B. & Loan Association	24 00
	Doc. Robertson	24 00
	Rose & Burr	225 00
	Simmons & Bacon	31 25
	Woodruff & Bro	

Hall rent:

Feb'y —.	4 nights, @ $25		100 00
M'ch —.	3 " " 25		75 00
			263 10

3 quarter's rents, ending July 1–4, 1868:

1868.			
April	1. W. A. Huff		700 00
	2. Porter & Hudgins		375 00
	3. Porter & Hudgins		350 00
	4. Fitzgerald & Carroll		375 00
	5. C. G. Wheeler		
	6. Dub & Spritz		240 00
	7. W. G. Harris		375 00
	8. L. W. Rasdell		350 00
	9. L. W. Rasdell & Co.		375 00
	10. Havens & Brown		
	11. T. W. Ellis		
	12. Chas. H. Baird		150 00
	13. E. Price		225 00
	14. Miss E. Ward & Sister		150 00
447	Rooms:		
	W. T. Lightfoot		
	Dr. A. P. Collins		30 00
	Dr. F. G. Cartlen		30 00
	L. W. Rasdell		27 00
	L. W. Rasdell & Co.		30 00
	Jno. T. Brown		27 00
	M. B. & L. Association		24 00
	Doc. Robertson		
	Rose & Burr		
	Simmons & Bacon		31 25
	Woodruff & Bro		
	Hall rent:		
May —.	7 nights, @ $25		175 00
			$14,302 35

1867.				
Oct.	1. J. W. Burke & Co.	Voucher #	1	2 50
	6. James A. Ralston	" "	2	100 25
	11. James A. Ralston	" "	3	100 00
	15. Mrs. Laura Smith	" "	4	250 00
	18. James A. Ralston	" "	5	100 00
Nov.	1. E. Price	" "	6	50 00
	4. E. Ward & Sister	" "	7	50 00
	18. James A. Ralston	" "	8	100 00
	19. Burke & Tripod	" "	9	33 95

Dec'r	5.	B. Hill	Voucher #	10	40 25
	7.	Harris & Brown	"	" 11	25 00
	14.	James A. Ralston	"	" 12	200 00
	26.	James A. Ralston	"	" 13	150 00
	27.	B. A. Wise	"	" 14	3 50
			"	" 15	103 15
		1868.			
448	Jan'y 2.	Megrath & Patterson	"	" 16	417 78
	3.	James A. Ralston, James A. Ralston	"	" 17	250 00
	6.	Joseph Block	"	" 18	103 55
	"	Jacob Schall	"	" 19	50 00
	"	Theo. W. Ellis	"	" 20	25 30
	"	Little & Smith	"	" 21	27 55
	"	B. Hill	"	" 22	250 00
	"	Grier & Masterson	"	" 23	20 00
	"	Massenburg, Son & Harris	"	" 24	22 50
	"	J. L. Shea	"	" 25	107 50
	"	Burdick, Bro. & Co.	"	" 26	20 30
	7.	B. A. Thornton, adm'r	"	" 27	400 00
	"	A. W. Chapman	"	" 28	104 00
	"	C. H. Hall	"	" 29	245 00
	9.	W. A. Huff	"	" 30	23 36
	11.	E. P. Grannise	"	" 31	1,036 67
	"	M. Ogden	"	" 32	204 17
	"	J. W. Boardman	"	" 33	304 17
	"	T. J. Flint	"	" 34	1 80
	"	M. R. Rodgers & Co.	"	" 35	11 95
	25.	James A. Ralston	"	" 36	100 00
	28.	H. N. Ells	"	" 37	17 75
	"	Peter Hertel	"	" 38	460 70
Feb'y	6.	Mrs. Laura Smith	"	" 39	100 00
	19.	James A. Ralston	"	" 40	100 00
	21.	Charles Cruft	"	" 41	40 00
	23.	James A. Ralston	"	" 42	100 00
	27.	B. A. Thornton, adm'r	"	" 43	156 90
M'ch	3.	James A. Ralston	"	" 44	150 00
	7.	James A. Ralston	"	" 45	181 10
449	7.	Fitzgerald & Carroll	"	" 46	31 50
	April 6.	James A. Ralston	"	" 47	500 00
		Forward			$6,871 95
		1868.			
April	6.	Henry Blount	Voucher #	48	54 00
"	12.	James A. Ralston	"	" 49	100 00
"	14.	Mrs. Laura Smith	"	" 50	150 00
"	16.	John C. Curd	"	" 51	120 00
"	27.	Special State tax	"	" 52	104 40
	"	James A. Ralston	"	" 53	301 00
	30.	James A. Ralston	"	" 54	50 00

May	8.	Henry L. Benning	Voucher # 55	500 00
	"	James A. Ralston	" " 56	566 00
	12.	Valentine Bruno	" " 57	10 00
	23.	Warehouse stock	" " 58	1,000 00
June	5.	Miss E. Ward & Sister	" " 59	75 00
	8.	Henry Blount	" " 60	16 25
"	"	Revenue tax	" " 61	67 98
	30.	James A. Ralston	" " 62	164 00
July	1.	James A. Ralston	" " 63	95 00
	4.	Stephen Elder	" " 64	17 00
	3.	James A. Ralston	" " 65	225 14
	"	Secession tax	" " 66	560 00
	7.	J. A. Ralston	" " 67	1,117 50
		Stamps		5 00
				$12,170 22

G'dn's com. on $12,170.22, @ 2½%	$304 25	
" " $14,302.35, rec'd, @ 2½%	357 55	
		661 80
Balance to next return		1,470 33
		$14,302 35

450 GEORGIA, *Bibb County:*

Personally came George B. Turpin, guardian, who, being duly sworn, saith that the foregoing return is just and true as it stands stated.

GEO. B. TURPIN.

Sworn to and subscribed before me this July 7th, 1868.

W. M. RILEY, *Ordinary.*

Recorded August 8th, 1868.

W. M. RILEY, *Ordinary.*

Voucher # 1.

Received, Macon, Ga., October 1st, 1867, of Geo. B. Turpin, guardian of Jas. A. Ralston, two ($2.50) dollars and fifty cents for one blank book.

J. W. BURKE & CO.
MITCHELL.

Voucher # 2.

FRANKFORT, KY., *Oct. 6th*, 1867.

Rec'd of Geo. B. Turpin, guardian, one hundred $\frac{25}{100}$ dollars cash.

JAMES A. RALSTON.

Voucher # 3.

FRANKFORT, KY., *Oct. 11th*, 1867.

Received of Geo. B. Turpin, guardian, one hundred dollars ($100).

JAMES A. RALSTON.

451 *Voucher* # 4.

Received of Geo. B. Turpin, guardian for James A. Ralston, minor, two hundred and fifty dollars ($2.50).

MRS. LAURA R. SMITH.

Voucher # 5.

FRANKFORT, KY., *Oct. 18th*, 1867.

Rec'd of Geo. B. Turpin, guardian, one hundred dollars ($100).

JAMES A. RALSTON.

Voucher # 6.

Received of George B. Turpin, guardian for James A. Ralston, minor, fifty dollars, for which I agree to take the risk of leaks or rain on my stock in the store occupied by me, without any claim against him for damages or loss of goods until first of April, 1868.

ELIHU PRICE.

Voucher # 7.

Received of Geo. B. Turpin, guardian for James A. Ralston, minor, fifty dollars, for which I agree to take the risk of rain or leaks of store on my stock of goods in my store, on corner of Cotton avenue & Cherry street, and also on everything in the rooms of said store above, and don't hold him responsible for any damage on stock, goods, or on anything in my rooms above said store until the first day of April, 1868.

MISS WARD & SISTER.

Voucher # 8.

Received of George B. Turpin, guardian, one hundred dollars, Nov. 18th, 1867 ($100).

JAMES A. RALSTON.

452 *Voucher* # 9.

MACON, *Nov. 9th*, 1867.

Mr. Geo. B. Turpin, guardian for Jas. A. Ralston, minor, to Burke & Tripod, Dr.

Miss Ward's store:

To 1 box, 24 x 36, double thick, French	23 95
5 lights, 16 x 18, set 4.00; 30, double thick, 12 x 14, set .75, 2.25	6 25
Setting 5 lights, 24 x 16, .75	3 75
	$33 95

Rec'd of Geo. B. Turpin, guardian for Jas. A. Ralston, minor, thirty-three $\frac{95}{100}$ dollars in full for above account.

BURKE & TRIPOD.

Voucher # 10.

Geo. B. Turpin, gu'd'n of Jas. A. Ralston, minor, to B. Hill, Dr.

1867.

Dec. 3. To cash for payment of costs in the supreme court case of J. A. R. *vs.* Bozeman & wife	$15	25
To cash paid J. W. Burke & Co. for printing copy bill of exceptions, brief, &c., in said case	25	00
	40	25

Rec'd, Dec'r 5th, 1867, of Geo. B. Turpin, gu'd'n, forty $\frac{25}{100}$ dollars in full of the above ac.

B. HILL.

Voucher # 11.

MACON, GA., *Dec. 7th*, 1867.

Received of Geo. B. Turpin, guardian, twenty-five dollars, for which we agree to take all risk of leaks and damage of our stock of goods in store on Cherry street, and do not hold him responsible for any damage which may occur in said building on stock of goods until first day of June, 1868.

HAVENS & BROWN.

453 *Voucher* # 12.

FRANKFORT, KY., *Dec. 14th*, 1867.

Received of Geo. B. Turpin, guardian, two hundred dollars.

JAMES A. RALSTON.

Voucher # 13.

MACON, *Dec. 26th*, 1867.

Received of Geo. B. Turpin, guardian, one hundred dollars.

JAMES A. RALSTON.

Voucher # 14.

G. B. Turpin, guardian for J. A. Ralston, bought of B. A. Wise.

1867.

Dec. 14. 1 cash box	$3	50

Rec'd payment,

B. A. WISE,
P'r PRUDDEN.

Voucher # 15.

MACON, GA., *Dec.* —, 1867.

Mr. James A. Ralston, bought of Megrath & Patterson.

June 1.	Cigars, 1.00; (8) cigars, 2.00; (3) cigars, 2.00; (8) cigars, 2.00	7 00
3.	Cigars, 1.00; (4) do., 2.00; (5) do., 3.75; 1 box do., $18	24 75
29.	Cigars, 6.00; (6) do., 1.00; July 1, ½ doz. cigars, 1.50; cigars, 1.00; cigars, 2.00	11 50
July 5.	Cigars, 1.50; (6) 8 cigars, 2.00; (8) 12 cigars, 3.00; 1 doz. lemons, 1.00; (9) 14 cigars, 3.00	11 00
9.	10 cigars, 2.00; (11) 16 cigars, 4.00; (13) 12 cigars, 3.00; 2 bot. whiskey, 2.50; (13) 5 cigars, 1.25	12 75
15.	7 cigars, 1.75; (15) 4 cigars, 1.00; (16) cigars, 1.75; (17) *do.* 1 bot. whiskey, 1.25	5 75
17.	Cigars, 2.00; (19) 9 cigars, 1.50; Aug. 7, do., 1.00; (9) do., 1.00; tobacco, .10	5 60
Aug. 9.	Box sardines, 1.00; 1 jar pickles, .50; 1 — crackers, .30; 20 cigars, 4.00; (12) cigars, 2.50	8 30
13.	Cigars, 1.50; (15) do., 1.00; (16) cigars, 2.00; (17) cigars, 2.00; (19) do., 1.00	7 50
19.	Cigars, 1.00; (20) —, 2.00, (27) do., 1.00; (28) do., 1.00; (29) do., 1.00	6 00
	Forward	$103 15
454	Amount bro't forward	103 15
Dec. 25.	By cash (H. L. C.)	50 75
		$53 40

GEORGIA, *Bibb County:*

Personally appeared before me N. S. Megrath, one of the firm of Megrath & Patterson, who, being sworn, says that the above account is just and true as it stands stated.

N. S. MEGRATH.

Sworn to & subscribed before me—

RICH'D CURD,
Not. Pub., Bibb Co.

Rec'd of Geo. B. Turpin, for Jas. A. Ralston, minor, one hundred and three $\frac{15}{100}$ dollars in full of the above ac.

MEGRATH & PATTERSON,
P'r HALL.

Voucher # 16.

MACON, *Jan'y* 30*th*, 1868.

Rec'd of Geo. B. Turpin, guardian, four hundred and seventeen $\frac{75}{100}$ dollars on clothing ac.

JAMES A. RALSTON.

Voucher # 17.

MACON, GA., — 3*d*, 1868.

Rec'd of Geo. B. Turpin, guardian, two hundred and fifty dollars on schooling ac.

JAMES A. RALSTON.

Voucher # 18.

MACON, *Jan'y 6th*, 1868.

455 Mr. Jas. A. Ralston to J. P. Block, Dr.

To cigar ac. from May 15th to Aug. 4th, 1867---------- $103 55

GEORGIA, *Bibb County:*

In person appeared before me Jos. Block, who, on oath, saith the above account of one hundred and three $\frac{55}{100}$ — is true as above stated.

JOSEPH BLOCK.

Sworn to and subscribed before me this Jan'y 6th, 1868.
E. C. GRANNIS, *J. P.*

Rec'd of Geo. B. Turpin, guardian, for James A. Ralston, minor, one hundred and three $\frac{55}{100}$ dollars in full for above ac.

JOSEPH BLOCK.

Voucher # 19.

MACON, GA., *Aug.* 31*st*, 1867.

Mr. James A. Ralston bought of Jacob Schall.

July 10.	1 p'r calf-skin boots, 16; for mending boots, 3----	$19 00
Aug. 5.	1 " slippers, 2.50; (16) 1 p'r calf gaiters --------	12 50
" 18.	Half-soling — heel-, 2; mending shoes, .50; (30) p'r boots----------	18 50
		$50 00

GEORGIA, *Bibb County:*

In person appeared before me Jacob Schall, who, on oath, saith within account of fifty dollars is true as herein stated.

J. SCHALL.

Sworn to and subscribed before me this Jan'y 6th, 1868.
E. C. GRANNIS, *J. P.*

456 Received, Macon, Jan'y 6th, 1868, of Geo. B. Turpin, for Jas. A. Ralston, minor, fifty dollars, in full for within acc't.

J. SCHALL.

Voucher # 20.

Mr. Jas. A. Ralston bought of Theo. W. Ellis.

July 16.	Cash, .50; (17) sponge, .75; sweet oil, .50; 2 ps., 1.25; 2 do., 2.50	5 50
Aug. 3.	Cast. oil, 1.25; sp'ts nitre, 1; cast. soap, .25; medicine for Jim, 1	3 50
" 9.	R'f, 1.25; glycerine, .50; toilet powder, .50; puff & powder box, 2.25	4 50
" 14.	Hartshorn, .50; (15) tooth-brush, .75; (16) sweet oil, .75; powder box, .25	2 25
" 17.	P'k'g. soap, .60; bot. cit. magnesia, .50; (19) chloride lime, .50	1 60
" 19.	Cigars, .20; bot. perfume, 1.50; (29) bot. cit. magnesia, .50	2 20
" 30.	Perfume, 1.50; prescriptions for William, 2.00	3 50
	3 bot. Congress water, 1.50; Dec. 26, cologne, .75	2 25
		$25 30

GEORGIA, *Bibb County:*

Personally came Theo. W. Ellis, who, being duly sworn, deposeth and says that the above and foregoing account of twenty-five $\frac{30}{100}$ dollars is just and true as it stands stated and that — is yet unpaid.

THEO. W. ELLIS.

Sworn to & subscribed before me Jan'y 6th, 1868.

J. C. C. BURNETT, *J. P.*

MACON, *Jan'y 6th*, 1868.

Received of Geo. B. Turpin, guardian for James A. Ralston, minor, twenty-five $\frac{30}{100}$ dollars, in full for within account.

THEO. W. ELLIS.

457 *Voucher* # 21.

James A. Ralston bought of Little, Smith & Co.

April 2.	Repairing martingale, .25; (25) tree in gig saddle, 3.00	$3 25
25.	New bolt hook in saddle, 1; May 20th, buckles on roller girth, .50	1 50
May 20.	2 side straps for do., 1.50; crumpped trap for break-horses, 3.00	4 50
27.	Rim centras, 5.00; June 7, harness martingale, 3.50	8 50
June 7.	Muzzle for horse, 3.00; (8) repairing martingale, .50	3 50
8.	Check rein, 1.50; work on driving reins, 1.00; whip, 1.50	4 00
July 19.	Chamois skin, 1.00; brush, .50; box blacking, .10; Aug. 16, rep. halter	2 10
		$27 35

GEORGIA, *Bibb County:*

Personally came and appeared before me, E. C. Grannis, a justice of the peace, Davis Smith, one of the firm of Little, Smith & Co., who, being duly sworn, deposeth and saith that the above account of twenty-seven ($\frac{35}{100}$) dollars against James A. Ralston is just and true as the same stands stated.

DAVIS SMITH.

Sworn to and subscribed before me this Jan'y 6th, 1868.

E. C. GRANNIS, *J. P.*

Received from George B. Turpin, guardian for James A. Ralston, minor, twenty-seven ($\frac{35}{100}$) dollars, amount of above account, Jan'y 6th, 1868.

LITTLE, SMITH & CO.

Voucher # 22.

MACON, GA., *Jan'y 6th*, 1868.

458 Received from George B. Turpin, guardian of James A. Ralston, minor, two hundred and fifty dollars, retainer for supreme court in the case of Thornton, adm'r, *vs.* Bozeman and wife and J. A. Ralston, bill, &c., as per agreement with said guardian.

B. HILL,
Att'y-at-Law.

Voucher # 23.

James A. Ralston to Grier & Masterson.

1867.
May 5. To 1 band wagon, 10.00; (17) carriage at night, 10.00 ---------- $20 00

GEORGIA, *Bibb County:*

Personally appeared before me P. Masterson, one of the firm of Grier & Masterson, who, being duly sworn, declares the above account is just and correct, to the best of his knowledge and belief.

GRIER & MASTERSON.

J. MONROE OGDEN,
Notary Public.

MACON, *Jan'y 6th*, 1868.

Rec'd from George B. Turpin, guardian for Jas. A. Ralston, minor, twenty dollars in full for above ac.

C. MASTERSON.

Voucher # 24.

Mr. Jas. Ralston bought of Massenburg, Son & Harris.

1867.		
June 3.	2 prsc., 422 7-8, 1.50; (6) hair-brush, 2.50; (6) dress comb, 1.00; tooth-brush, 50	5 50
6.	1 cake soap, .25; (30) Dubois extract, 7.50; 1 hand mirror, 3.00; 1 tooth-brush, .50	11 75
July 19.	2 cakes Dubois soap, 1.50; 1 prsc., 5701, .75; Aug. 4, 1 prsc., 6250, .50; (9) prsc., .38, 1	3 75
Aug. 17.	1 prsc., .50; (28) 2 prsc., 7778, 7180, 1.00	1 50
		$22 50

459 GEORGIA, *Bibb County:*

Personally came before me, notary public in and for said county, T. L. Massenburg, one of the firm of Massenburg, Son & Harris, who, being duly sworn, says that the above account of twenty-two $\frac{50}{100}$ dollars is just and true as it stands stated.

T. L. MASSENBURG.

Sworn to and subscribed before me Jan'y 6th, 1868.

J. F. GREER,
Notary Public, Bibb Co., Ga.

Received of Geo. B. Turpin, guardian for James A. Ralston, minor, twenty-two $\frac{50}{100}$ dollars in full for the within ac.

Macon, Jan'y 6th, 1868.

MASSENBURG, SON & HARRIS.

Voucher # 25.

Mr. James A. Ralston bought of J. L. Shea, merchant tailor.

	Buttons, pressing & lining black coat	5 00
July 15.	1 fancy walking suit, 80.00; 1 white satin tie, 2.50	82 50
" 19.	1 p'r duck pants, 12.00; cleaning & pressing bl'k pants	13 00
" 23.	Remaking gray pants	7 00
		$107 50

Rec'd of Geo. B. Turpin, guardian for James A. Ralston, one hundred and seven $\frac{50}{100}$ dollars in full for the above account.

J. L. SHEA.

GEORGIA, *Bibb County:*

460 Personally appeared before me J. L. Shea, who, being duly sworn, sayeth that the within account of $107.50 *dollars* is just and true as stated.

Voucher # 26.

Mr. James A. Ralston — Burdick Bros. & Co.

1867.

June 6. 100 lbs. bran, 3.00; drayage & sacks, .75 ---------- 3 75
July 19. 46 " " 1.15; 4 sacks oats, $12\frac{20}{32}$ bu., $15\frac{15}{120}$; drayage, .25---------- 16 55

$20 30

GEORGIA, *Bibb County:*

Personally appeared before me, W. P Goodall, a notary public for the State of Georgia, George Burdick, one of the firm of Burdick Bros. & Co., who, being duly sworn, deposeth and saith that the above account is true and correct to the best of his knowledge and belief. Amount, twenty $\frac{30}{100}$ dollars.

GEO. BURDICK.

W. P. GOODALL,
Notary Public, Bibb Co., Ga.

Received of Geo. B. Turpin, guardian of James A. Ralston, minor, twenty $\frac{30}{100}$ dollars, in full of above account.
Macon, Jan'y 6th, 1868.

BURDICK BROS. & CO.

Voucher # 27.

MACON, *January 7th*, 1868.

Received of Geo. B. Turpin, guardian for James A. Ralston, minor, four hundred dollars for advances made to said Jas. A. Ralston before Oct. 1st, 1867.

B. A. THORNTON, *Adm'r.*

461 *Voucher* # 28.

Mr. James A. Ralston to A. W. Chapman, ag't.

1867.

July 18. Horse & buggy & driver, 3.00; (17) carriage at night, 10.00---------- 13 00
17. Use of harness 13 days, 6.00; Aug. 10, buggy & horse, 3.00---------- 9 00
19. Buggy & horse, 3.00; (19) carriage, 5.00; (27) horse & buggy, 3.00---------- 11 00
July —. 25 days' board horses---------- 25 00
Aug. —. 38 " " " ---------- 38 00
Dec. 24. Carriage ---------- 8 00

$104 00

GEORGIA, *Bibb County:*

Personally appeared before me Asa W. Chapman, ag't, who, being duly sworn, upon oath says the above account is just and true, to the best of his knowledge and belief.

Macon, Ga., Jan'y 7th, 1868.

A. W. CHAPMAN, *Ag't.*

J. MONROE OGDEN,
Notary Public.

MACON, *January 7th*, 1868.

Received of Geo. B. Turpin, guardian for Jas. A. Ralston, minor, one hundred and four dollars in full for the above account.

A. W. CHAPMAN.

Voucher # 29.

Mr. Jas. A. Ralston to Chas. H. Hall, Dr.

1867.
Sept. For medical services to date---------- $245 00

462 GEORGIA, *Bibb County:*

Personally appeared Dr. H. Hall, who on oath says that the above account is just and true, to the best of his knowledge and belief.

Jan'y 7th.

C. H. HALL.

RICH'D CURD, [SEAL.]
Not. Pub., Bibb County.

Rec'd of Geo. B. Turpin, guardian for Jas. A. Ralston, minor, two hundred and forty-five dollars in full for the above account to date.

CHAS. H. HALL,
Per J. A. HALL.

Voucher #30.

Mr. Jas. A. Ralston bo't of W. A. Huff.

1867.

April 27.	1 bale hay, 230 lbs.; 185 brs.; 2 sacks oats, 197 lbs., 100, 615----------	$12 70
June 5.	Drayage, .25; 8.3 bush. oats, 1.25, 10.41----------	10 66
		$23 36

GEORGIA, *Bibb County:*

Personally appeared before me W. A. Huff, who, being duly sworn, says that the above account is just and true, to the best of his knowledge and belief.

Jan'y 9th, 1867.

W. A. HUFF.

RICH'D CURD, *Not. Pub.* [SEAL.]

MACON, GA., *Jan'y 9th*, 1867.

Rec'd of Geo. B. Turpin, guardian for Jas. A. Ralston, minor, twenty-three $\frac{36}{100}$ dollars in full of above account.

W. A. HUFF.

463 *Voucher* #31.

MACON, GA., *Jan'y 11th*, 1868.

— of Geo. B. Turpin, guardian for Jas. A. Ralston, minor, ten hundred and thirty-six $\frac{67}{100}$ — for insurance on brick store-houses in Macon, Ga.

$1,036.67. E. C. GRANNIS, *Ag't.*

Voucher #32.

MACON, GA., *Jan'y 11th*, 1868.

Received from Geo. B. Turpin, guardian for James A. Ralston, two hundred and four $\frac{17}{100}$ dollars, insurance as per policies given to him.

$204.17. J. MONROE OGDEN,
Insurance Agent.

Voucher #33.

$304.17 MACON, GA., *Jan'y 11th*, 1868.

Received of Geo. B. Turpin, guardian for Jas. A. Ralston, a minor, the sum of three hundred and four $\frac{17}{100}$ dollars for premiums on insurance to the amount of fourteen thousand and six hundred and twenty-nine $\frac{63}{100}$ dollars on the two-story brick building in Triangular Square and the brick range on the corner of Cherry & Third Sts., in the city of Macon, Ga.

J. M. BOARDMAN, *Ag't,*
By GRANVILLE E. CONNER.

Voucher #34.

MACON, GA., *April 23d*, 1867.

Mr. Jas. A. Ralston bought of T. J. Flint.

10% on goods loaned, 1.30; $\frac{1}{2}$ gal. kerosene oil, .50 ..... $1 80

464 Received of Geo. B. Turpin, guardian of Jas. A. Ralston, minor, one dollar and eighty cents in full for the above account.

Macon, Ga., Jan'y 11th, 1867.

T. J. FLINT & CO.,
For T. J. FLINT.

Voucher #35.

Mr. Jas. A. Ralston to M. R. Rogers & Co.

1867.
Nov. 12. Amount of account $11 95

GEORGIA, *Bibb Connty:*

Personally appeared before me L. A. House, one of the firm of M. R. Rogers & Co., — says upon oath that the above ac. is just and true, to the best of his knowledge and belief.

L. A. HOUSE.

RICH'D CURD,
Not. Pub., Bibb Co.

MACON, *Jan'y 16th*, 1868.

Rec'd of Geo. B. Turpin, guardian for Jas. A. Ralston, minor, eleven $\frac{95}{100}$ dollars in full for the above ac.

M. R. ROGERS & CO.

Voucher #36.

LOUISVILLE, KY., *Jan'y 25th*, 1868.

Rec'd of Geo. B. Turpin, guardian, one hundred dollars ($100).

JAMES A. RALSTON.

Voucher #37.

J. A. Ralston, Jr., to H. N. Ells.

465	1867.	
	July 7. Segars, 1; 8 do., 1; (10) drinks, .50; segars, 1.50; (15) drinks, .50	$4 50
	July 18. Segars & drinks, 1.25; Aug. 2, segars, 1; (18) do., 1; ice, .50	3 75
	Dec. 24. Suppers, &c., 3; (25) breakfast, 1.50; (25) drinks, 1.50	6 00
	" 25. 2 doz. oranges, 2; drum figs, 1.50	3 50
		$17 75

STATE OF GEORGIA, *Bibb County:*

Before me, the undersigned, personally came Henry M. Ells, who, being duly sworn, says that the above account is true as stated.

H. N. ELLS.

Sworn to & subscribed before me this 28th day of Jan'y, 1868.

R. S. LANIER, *Not. Pub.*

Rec'd of Geo. B. Turpin, guardian of J. A. Ralston, Junior, seventeen $\frac{75}{100}$ dollars in full for above ac.

H. A. ELLS.

Voucher #38.

MACON, *January 2d*, 1868.

Mr. Geo. B. Turpin, guardian of J. A. Ralston, minor, to P. Hertel, Dr.

To making 4 iron doors for theatre building	$400 00
" 2 iron sills, 45.20; walling one door, 12.50; painting, 3.00	60 70
	$460 70

Received of Geo. B. Turpin, guardian for Jas. A. Ralston, minor, four hundred and sixty $\frac{70}{100}$ dollars in full for above acc't.

PETER HERTEL.

466 *Voucher* # 39.

NEW YORK, *Feb'y 6th*, 1868.

Received of Geo. B. Turpin, guardian for James A. Ralston, minor, one hundred dollars.

Feb'y 6th, 1868.

MRS. LAURA SMITH.

Voucher # 40.

FRANKFORT, KY., *Feb'y 19th*, 1868.

Received of Geo. B. Turpin one hundred dollars.

JAMES A. RALSTON.

Voucher # 41.

James A. Ralston to C. W. Craft.

1867.			
Feb'y	21.	To repairing one hinge, .25; M'ch 16, repairing shaft, 1	1 25
May	21.	To repairing buggy, 12.00; (24), shrinking tire on buggy, 5.00	17 00
"	27.	To 2 shoes & 6 renewed, 2.50; shrinking 2 tires, 2.00	4 50
June	12.	To shoes by N. Monroe, 2.00; July 8, 2 shoes, 1	3 00
July	19.	" ironing buggy pole, 5.00; work — buggy body, 5.25	10 25
Aug.	16.	To 4 shoes, 2; 19, 4 shoes, 2	4 00
			$40 00

GEORGIA, *Bibb Co.:*

Personally appeared before me C. W. Craft, who, being sworn, says that the acc't is just and true, to the best of his knowledge and belief.

his
C. W. x CRAFT.
mark.

Rec'd of Geo. B. Turpin, guardian for James A. Ralston, minor, forty dollars in full of above account.

his
C. W. x CRAFT.
mark.

467 *Voucher* # 42.

FRANKFORT, KY., *Feb'y 23d*, 1868.

Received of Geo. B. Turpin, guardian, one hundred dollars.

JAMES A. RALSTON.

Voucher # 43.

Received of Geo. B. Turpin one hundred and fifty-six dollars and ninety cents, as guardian of James A. Ralston, for advances made to said James A. Ralston before Oct. 1st, 1867.

B. A. THORNTON, *Adm'r.*

Voucher No. 44.

MACON, GA., *March 3d*, 1868.

Received of Geo. B. Turpin, guardian, one hundred & fifty dollars ($150.00).

JAS. A. RALSTON.

Voucher # 45.

MACON, *March 7th*, 1868.

Received of Geo. B. Turpin, guardian, one hundred and eighty-one $\frac{1}{100}$ dollars.

JAS. A. RALSTON.

Voucher # 46.

Geo. B. Turpin, guardian for J. A. Ralston, to Fitzgerald & Harrold, Dr.

1867.			
Oct. 4.	To whitewashing store, 3.00; lock for iron door, 5		8 00
" "	" lock for water-closet, 1; gas fixing, 18.50; bell for doors, 4		23 50
			31 50

Rec'd of Geo. B. Turpin, guardian for James A. Ralston, thirty dollars and fifty cents in full for above bill.

FITZGERALD & HARROLD.

468 *Voucher* # 47.

MACON, *April 6th*, 1868.

Rec'd of Geo. B. Turpin, guardian, five hundred dollars ($500).

J. A. RALSTON.

Voucher # 48.

MACON, *April 6th*, 1868.

Geo. B. Turpin, guardian for J. A. Ralston, to Henry Blount, Dr.

Feb'y 29.	To making cellar doors for Price		$10 00
Jan'y 17.	" repairs on F. Long's cellar door		4 00
" 31.	" " Dinkle's store, 5.00; Feb'y 13, repairs on Rasdell's store, 5		10 00
Feb'y 20.	" repairs on Miss Ward's steps, 15; M'ch 7, lumber from Ellis, 4		19 00
M'ch 31.	" whitewashing Doc. Robertson		2 00
April 1.	" fixing door on Price's store		2 00
	" repairs on Miss Ward's store		7 00
			$54 00

Received payment,

HENRY BLOUNT.

Voucher # 49.

MACON, GA., *April* 12*th*, 1868.

Received of Geo. B. Turpin, guardian, one hundred dollars.

JAMES A. RALSTON.

Voucher # 50.

Received of Geo. B. Turpin, guardian for J. A. Ralston, one hundred and fifty dollars for quarter ending April 1st, 1868.

April 14th, 1868.

LAURA R. SMITH.

469 *Voucher* # 51.

MACON, *April* 16*th*, 1868.

Received from Geo. B. Turpin, guard'n for Jas. A. Ralston, Jr., one hundred and twenty-five dollars for subscription to steam-fire engine.

JOHN C. CURD,
C-air. Com. Protection Fire Co. No. 1.

Voucher # 52.

Received from Geo. B. Turpin one hundred and four $\frac{40}{100}$ dollars for his State special tax for 1868, guardian Jas. A. Ralston.

$104.40. F. M. HEATH, *T. C.*

Voucher # 53.

MACON, GA., *April* 27*th*, 1868.

Received of Geo. B. Turpin, guardian, three hundred and one ($301.00) dollars.

JAMES A. RALSTON.

Voucher # 54.

Received of Geo. B. Turpin, guardian, fifty dollars.

April, 30th, 1868.

J. A. RALSTON.

Voucher # 55.

COLUMBUS, 9*th May*, 1867.

DEAR SIR: Col. Thornton informs me that you wished me to draw on you for my fee of $500 for arguing the case of Thornton, adm'r, against Bozeman & wife and against James Ralston, at the last supreme court, the *agreement* being made for James Ralston
470 and against Bozeman & wife. Accordingly I have drawn on you at sight for $500 in favor of John King; the draft bears date of this day. Mr. King will send it to W. W. Wrigley, cash'r 1st National Bank, for collection. Take it up, and it with this letter will be a sufficient voucher to you before the court of ordinary when you make your return as guardian of James Ralston.

Very respectfully, HENRY L. BENNING.

Mr. George B. Turpin.

COLUMBUS, GA., *May 8th*, 1868.

At sight pay to the order of John King five hundred dollars, value received, and charge the same to account of—

HENRY L. BENNING.

To Geo. B. Turpin, Macon, Ga.

Pay to W. W. Wrigley, cash'r, or order Jno. King.

W. W. WRIGLEY, *Cash'r*,
Per A. ADAMS.

Voucher # 56.

$566.00. MACON, GA., *May 11th*, 1868.

Rec'd of Geo. B. Turpin, guardian, two hundred and fifty-six dollars.

JAS. A. RALSTON.

Voucher # 57.

MACON, *May 12th*, 1868.

Mr. Geo. B. Turpin, guardian for Jas. A. Ralston, to V. Brunner, Dr.

To ac. plastering theatre---------- $10 00

Rec'd payment,

V. BRUNNER.

471 *Voucher* # 58.

$333.33. MACON, *March 20th*, 1868.

Geo. B. Turpin, guardian for Jas. A. Ralston, of the county of Bibb, having subscribed for ten shares of stock in the Planters' Warehouse Company of the City of Macon, said shares of stock being for one hundred dollars each, and having paid to the president of said company three hundred and thirty-three $\frac{33}{100}$ dollars on account *of*, this is to certify that said Geo. B. Turpin, guardian, or his legal representative, will be entitled, on the payment of the balance due on said subscription when called for, to said W. T. Lightfoot- shares of stock, the said Geo. B. Turpin, guardian, holding this certificate, or his legal representatives, having full right in the premises to participate in the management of said company under the rules and regulations thereof; this certificate to be cancelled and stock scrip issued under the act of incorporation to be delivered to the said George B. Turpin, guardian, or his legal representative.

By order of the president:

W. T. LIGHTFOOT.

M. D. PALMER, *Secretary*.

Rec'd on the within, as a further installment on the Planters' Warehouse stock, one hundred and sixty-six $\frac{67}{100}$ dollars.

May 8th, 1868.

W. T. LIGHTFOOT, *President*.

Received on the within two hundred and fifty dollars.
May 23d, 1868.

W. T. LIGHTFOOT, *President.*

472 Rec'd from Geo. B. Turpin, guardian for J. A. Ralston, two hundred and fifty dollars in full for ten shares of the capital stock of the Planters' Warehouse.
Macon, July 6th, 1868.

W. T. LIGHTFOOT, *President.*

Voucher # 59.

$75.00. MACON, *June 5th*, 1868.

Rec'd of Geo. B. Turpin, guardian for Jas. A. Ralston, minor, seventy-five dollars, for which we agree to take the risk of rain and leak *store* on our stock of goods in our store on corner of Cherry & Cotton avenue, and also on everything in the rooms above said store, and agree not to hold him responsible for any damage on stock of goods or on anything in our rooms above said store until the first day of October, 1868.

E. WARD & SISTER.

Witness: W. H. VIRGIN.

Voucher # 60.

JUNE 8TH, 1868.

Geo. B. Turpin, guardian for James A. Ralston, to Stephen Elder, Dr.

To whitewashing 7 rooms & hall, 8; plastering, 2 ---- ---- $10 00
" scouring rooms, 3.00; repairing pavement, 3.25---- ---- 6 25

$16 25

Rec'd payment,

STEPHEN ELDER,
Per VIRGIN.

Voucher # 61.

MACON, *June 11th*, 1868.

473 Mr. George B. Turpin, guardian for Jas. A. Ralston, Macon, to United States, Dr.

Tax on income for 1867, 65.98; gold watch, 2 ------ ------ $67.98

Received payment,

J. C. McBURNEY, *Collector*,
Per P. LAND.

Voucher # 62.

MACON, *June 30th*, 1868.

Rec'd of Geo. B. Turpin, guardian, one hundred and sixty-four dollars.

JAMES A. RALSTON.

Voucher # 63.

MACON, *July 1st*, 1868.

Rec'd of Geo. B. Turpin, guardian, ninety-five dollars.

JAS. A. RALSTON.

Voucher # 64.

MACON, GA., *July 4th*, 1868.

Geo. B. Turpin, guardian for James A. Ralston, to Henry Blount, Dr.

To 8 days' work @ $2 per day ---------- $17 00

Paid.

HENRY BLOUNT,
P'r VIRGIN.

Voucher # 65.

Rec'd of Geo. B. Turpin, guardian, two hundred and twenty-five dollars and fourteen cents.

$225.14.

JAS. A. RALSTON.

474 *Voucher* # 66.

JULY 3D, 1868.

Received of Geo. B. Turpin, guardian Jas. A. Ralston, of the estate of James A. Ralston, of the city of Macon, county of Bibb & State of Georgia, deceased, the sum of five hundred and sixty dollars, being the amount of internal revenue tax on legacies or distribution — James A. Ralston- son, 560.00—$560.00—for which payment of tax or duty under the provisions of the excise law of the United States, approved July 1st, 1862, the said George B. Turpin to be allowed by the person or persons entitled to the beneficial interest in said estate to the said amount of $560.00.

J. C. McBURNEY, *Collector*.

Voucher # 67.

MACON, GA., *July 7th*, 1868.

Rec'd of Geo. B. Turpin, guardian, eleven hundred seventeen $\frac{51}{100}$ dollars.

JAS. A. RALSTON.

1868.

July	7.	To balance on hand from last return		$1,470	33
"	8.	"	rent from Ross & Burr	62	50
"	"	"	Dr. B. G. Castlen	10	00
"	15.	"	Miss E. Ward & sister	75	00
"	"	"	hall 2 nights, 22–23 Sept.	50	00
Oct.	12.	"	coupons, city bonds	350	00
"	"	"	James A. Nisbet, $\frac{1}{2}$ 6 mo's rent dwelling	300	00
"	24.	"	hall, 28 Oct.	20	00

	Nov.	7.	To rent from hall 3 nights		37 50
475	"	"	" " " 2 "		50 00
	"	11.	" " " 1 "		25 00
Nov.	12.	To rent from hall, 1 night			25 00
"	13.	" " " 1 "			25 00
Dec.	9.	" "	W. G. Harris, quarter		375 00
"	"	" "	L. W. Rasdall		375 00
"	"	" "	W. A. Huff		700 00
"	"	" "	L. W. Rasdall		350 00
"	"	" "	Porter & Hudgins		375 00
"	"	" "	do.		350 00
"	"	" "	Fitzgerald & Carroll		375 00
"	"	" "	Miss Ward & sister		225 00
"	"	" "	Theo. W. Ellis		225 00
"	"	" "	E. Price		225 00
"	"	" "	Dubb & Spritz		120 00
"	"	" "	Dr. Collins		30 00
"	"	" "	L. W. Rasdall		27 00
"	"	" "	" & Co.		30 00
"	"	" "	J. T. Brown		27 00
"	"	" "	Macon B. & L. Assoc'n		24 00
"	"	" "	Simmons & Bacon		31 00
"	"	" "	Woodruff & Bro.		25 00
Dec.	12.	" "	Jenkins, for land		50 00
	16.	" "	hall 4 nights—15, 16, 17, & 28		100 00
1869.					
Jan'y	4.	" "	Miss Ward for Dec., '68		58 00
"	22.	" "	hall 1 night		20 00
Feb'y	6.	" "	" 6 " 4, 5, 6, 11, 12, & 13		150 00
"	16.	" "	Miss Ward, rent		58 00
"	"	" "	S. M. Sensel & Bro.		325 00
"	"	" "	Theo. W. Ellis		175 00
	Feb'y	16.	To rent from C. H. Baird, agent		233 32
476	"	" "	" E. Price		233 32
	"	" "	" Havens & Brown		232 00
Feb'y	16.	To rent from	Bacon & Simmons		30 00
"	"	" "	Geo. N. Holmes		30 00
"	"	" "	L. W. Rasdall		25 00
"	"	" "	Dubb & Spritz		433 32
"	"	" "	P. Fitzgerald		325 00
"	"	" "	Porter & Hudgins		300 00
"	"	" "	" "		325 00
					7,022 86

Feb'y	16.	To rent rec'd from			L. W. Rasdall & Co.		325 00
"	"	"	"	"	W. A. Huff		650 00
"	"	"	"	"	W. G. Harris		325 00
"	"	"	"	"	"		300 00
"	"	"	"	"	"		350 00
"	"	"	"	"	"		955 00
"	"	"	"	"	"		250 00
"	"	"	"	"	"		32 00
"	"	"	"	"	"		225 00
"	"	"	"	"	"		50 00
"	"	"	"	"	"		60 00
							11,544 86
		To balance					1,470 33
							$13,015 19

1868.

July	10.	By am't paid to			M. Riley, voucher #1		28 50
"	17.	"	"		Jas. A. Ralston, voucher #2		106 00
"	19.	"	"		Mrs. L. A. Smith, voucher #3		250 00
Sept.	2.	"	"		Jas. A. Ralston, voucher #4		197 50
"	15.	"	"		" " " #5		114 00
477	Sept.	26. By am't paid			Jas. A. Ralston, voucher #6		75 00
Sept.	26.	By am't paid			Henry Hines Voucher #7		37 50
"	"	"	"		G. Nussbaum " " 8		12 38
Oct.	8.	"	"		J. C. McBurney " " 9		405 61
"	"	"	"		Mrs. Laura R. Smith, voucher #10		250 00
"	7.	"	"		Van Ross Voucher #11		13 55
"	"	"	"		Crigley & Knott, " " 12		2 70
"	1.	"	"		Dubb & Spritz " " 13		14 75
"	10.	"	"		G. Nussbaum " " 14		21 01
"	"	"	"		E. Price " " 15		21 10
"	12.	"	"		city tax (1868) " " 16		605 00
"	"	"	"		Jas. A. Ralston " " 17		100 00
"	"	"	"		L. W. Ricks " " 18		40 00
"	"	"	"		Jas. A. Nisbet (repairs), voucher #19		53 25
"	19.	"	"		Jas. A. Ralston, voucher #20		100 00
"	"	"	"		Jones, Baxter & Day, voucher #21		9 00
"	"	"	"		Lanier & Anderson, voucher #22		100 00
"	21.	"	"		Jas. A. Ralston Voucher #23		100 00
"	22.	"	"		" " " " #24		400 00
"	26.	"	"		P. Fitzgerald " " 25		63 55
Nov.	9.	"	"		A. B. Ross, clerk, " " 26		30 00
							$3,150 70

Nov.	23.	By am't paid Jas. A. Ralston " " 27	732 00
Dec.	12.	" " taxes on dwelling, voucher #28	75 00
"	"	" " Macon Gaslight Co., voucher #29	3 00
"	26.	" " Jas. A. Ralston, voucher #30	350 00
1867.			
Jan'y	5.	" " Capt. W. W. Carnes, voucher #31	100 00
"	"	" " Mrs. Laura R. Smith, voucher #32	250 00
"	28.	" " Jas. A. Ralston-Voucher #33	863 20
"	30.	" " E. C. Grannis " " 34	550 00
Feb'y	15.	By am't paid J. M. Ogden, voucher #35	1,769 50
478	Feb'y	16. By am't paid Jas. A. Ralston, voucher #36	58 30
		Shingles	4 50
		Guardian's commissions and receipts and disbursements	605 81
		Paid Jas. A. Ralston, #37	4,503 18
			$13,015 19

By account of property turned over to ward of this date, he having arrived at the age of twenty-one years, voucher #38, to which reference is made in this return.

GEORGIA, *Bibb County:*

Personally came George B. Turpin, guardian, who, being duly sworn, says that the foregoing return is just and true as it stands stated, to the best of his knowledge and belief.

GEO. B. TURPIN.

Sworn to & subscribed before me this Feb'y 19th, 1869.

C. T. WARD, *Ordinary.*

Recorded in Book "O" March 19th, 1869.

C. T. WARD, *Ordinary.*

Voucher #1.

Geo. B. Turpin, guardian Jas. A. Ralston, to ordinary's office, Dr.

1867.			
Sept.	2.	To application and order for letters of guardianship	$2 00
		Letters & recording, 2; affidavit, .30	2 30
		Bond & recording, 2; revenue stamp, 1	3 00
		Recording petition & order, 1	1 00
479	1868.		
	July	7. Return—recording return & vouchers	29 70
			$28 50

Received from George B. Turpin, guardian, twenty-eight $\frac{50}{100}$ dollars, the amount of the above ac., this July 10th, 1868.

WM. M. RILEY, *Ordinary.*

Voucher # 2.

MACON, *July* 17*th*, 1868.

Rec'd of Geo. B. Turpin, guardian, one hundred and six dollars.

JAMES A. RALSTON.

Voucher # 3.

MACON, *July* 19*th*, 1868.

Rec'd of Geo. B. Turpin, guardian for James A. Ralston, two hundred and fifty dollars for quarter ending July 14th, 1868.

LAURA R. SMITH.

Voucher # 4.

MACON, *Sept.* 12*th*, 1868.

Rec'd of George B. Turpin, guardian, one hundred and ninety-seven $\frac{50}{100}$ dollars.

$197.50. JAS. A. RALSTON.

Voucher # 5.

MACON, *Sept.* 16*th*, 1868.

Rec'd from George B. Turpin, guardian, one hundred and fourteen dollars.

$114.00. JAS. A. RALSTON.

Voucher # 6.

480 Rec'd of George B. Turpin, guardian, seventy-five dollars.

JAMES A. RALSTON.

Voucher # 7.

George B. Turpin, guardian Jas. A. Ralston, to Henry Hinds, Dr.

To 12 days' work on Cherry St., Roff	$24 00
" whitewashing hall on Triangular block	13 50
	$37 50

Rec'd of Geo. B. Turpin, guardian Jas. A. Ralston, thirty-seven $\frac{50}{100}$ dollars in full for the above ac.

Sept. 26th, 1868.

$37.50. HENRY HINES.

Voucher # 8.

MACON, GA., *July*, 1868.

Geo. B. Turpin, guardian Jas. A. Ralston, bought of G. Nussbaum.

2 pieces osanburgs, 55 W. S., .22½	$12 38

$12.38.

Received payment, G. NUSSBAUM.

Voucher # 9.

UNITED STATES INTERNAL REVENUE
COLLECTOR'S OFFICE, 2D DIST. OF GEO.,
MACON, *Oct 8th*, 1868.

Rec'd of G. B. Turpin, Esq., guardian for James A. Ralston, four hundred and five $\frac{60}{100}$ dollars, being part of an assessment on income of est. of James A. Ralston, deceased, assessed against B. A. Thornton, adm'r of est. of James A. Ralston, deceased.

$405.60. J. C. MCBURNEY, *Coll.*,
Pr. THOS. RYAN.

481 *Voucher* # 10.

Rec'd of Geo. B. Turpin, guardian for James A. Ralston, two hundred and fifty dollars for quarter ending Oct. 14th, 1868.

$250.00. LAURA R. SMITH.

Voucher # 11.

George B. Turpin, guardian for James A. Ralston, to Van Ross, Dr.

For 62 yards plastering	9 30
" hearth patching & laths	1 75
" 5 loads seconds	2 50
	$13 55

MACON, *Oct. 7th*, 1868.

Received from Geo. B. Turpin, guardian for James A. Ralston, thirteen $\frac{55}{100}$ dollars in full of the above bill.

$13.55. his
VAN x ROSS.
mark.

Witness:
J. MONROE OGDEN.

Voucher # 12.

MACON, GA., 1868.

G. B. Turpin, guardian Jas. A. Ralston, bought of Wrigley & Knott.

July 13.	To 1 mortise lock	$1 25
Sept. 19.	" 3 papers 6 oz. tacks	45
" "	" 11 lbs. nails	1 00
		$2 70

Rec'd of Geo. B. Turpin, guardian for James A. Ralston, minor, two $\frac{70}{100}$ dollars in full of the ac.

$2.70. WRIGLEY & KNOTT,
Pr. KENNEDY.

Macon, Oct. 7th, 1868.

482 *Voucher* #13.

MACON, *Oct.* 1*st*, 1868.

Geo. B. Turpin, guardian James A. Ralston, to Dub & Spritz.

For fixing shelves in store, b. b. ---------- $14 75

Received payment,
$14.75. DUB & SPRITZ.

Voucher #14.

MACON, GA., *Oct.* 10*th*, 1868.

Geo. B. Turpin, guardian Jas. A. Ralston, bought of G. Nussbaum.

Sept. 16.	31½	osnaburgs	$6 93
" 19.	34	"	7 00
" 30.	30	"	5 25
			$21 01

Rec'd payment of Geo. B. Turpin, guardian of Jas. A. Ralston, twenty-one $\frac{1}{100}$.
$21.01. D. G. S.

Voucher #15.

Geo. B. Turpin, guardian J. A. R., to E. Price.

To 1 p'r steps	16 00
" lumber for windows	1 60
" 1 lock, 1.25; 1 glass, 1	2 25
" work on doors & windows	75
" " putting in glass	25
" " " on locks	25
	$21 10

Rec'd of Geo. B. Turpin, guardian of Jas. A. Ralston, twenty-one $\frac{10}{100}$ dollars in full for above ac.
$21.10. E. PRICE.

483 *Voucher* #16.

CITY TREASURER'S OFFICE, MACON, *Oct.* 12*th*, 1868.

Received from Geo. B. Turpin, guardian of Jas. A. Ralston, six hundred and five $\frac{00}{100}$ dollars for city tax on real and personal estate for 1868.
$605.00. C. J. WILLIAMSON, *Treasurer*,
P'r LYC.

Voucher #17.

MACON, GA., *Oct.* 12*th*, 1868.

Rec'd of George B. Turpin, guardian, one hundred dollars.
$100.00. JAMES A. RALSTON.

Voucher #18.

George B. Turpin, guardian for James A. Ralston, to L. C. Ricks, Dr.

42 feet 60-inch valley	$31 00
Repairing roof	3 00
14 feet conductor pipe	3 50
	2 00
	$40 00

Received payment of Geo. B. Turpin, guardian for J. A. Ralston, forty dollars in full of the above ac.

$40.00. L. C. RICKS.

Oct. 12th, 1868.

Voucher # 19.

MACON, GA., *Oct. 15th*, 1868.

Received of Geo. B. Turpin, guardian, fifty-three $\frac{25}{100}$ dollars, one-half of repairs & improvements put on the Ralston house in 1867.

$53.25. JAMES A. NISBET.

484 *Voucher* # 20.

MACON, *Oct. 19th*, 1868.

Rec'd of Geo. B. Turpin, guardian, one hundred dollars.

($100.00.) JAMES A. RALSTON.

Voucher # 21.

G. B. Turpin, guardian, bought of Jones, Baxter & Day.

1868.

Sept. 29.	2 bbls.	lime, @	3.00	$6 00
Oct. 13.	1 do.	do.	"	3 00
				$9 00

Rec'd of G. B. Turpin, guardian of James A. Ralston, nine dollars in full of above ac.

Oct. 15th, 1868.

JONES, BAXTER & DAY,
CARTER.

Voucher # 22.

MACON, GA., *Oct. 19th*, 1868.

Rec'd of Geo. B. Turpin, guardian of James A. Ralston, one hundred dollars in part of our fees in case pending for the settlement of accounts of B. A. Thornton, adm'r, on estate of James A. Ralston, dec'd.

LANIER & ANDERSON.

Voucher # 23.

MACON, *Oct.* 21*st*, 1868.

Rec'd of Geo. B. Turpin, guardian, $100.00, one hundred dollars.
$100.00. JAMES A. RALSTON.

Voucher # 24.

485 MACON, GA., *Oct.* 22*d*, 1868.

Rec'd of Geo. B. Turpin, guardian, four hundred dollars.
($400.00.) JAS. A. RALSTON.

Voucher # 25.

Geo. B. Turpin, guardian Jas. A. Ralston, to P. Fitzgerald.

1868.
Oct. 23. Falkner's bill, 50.10; carp's ac., 7.75; Read's ac., 1-- $63 85

Rec'd of Geo. B. Turpin, guardian, sixty-three $\frac{85}{100}$ dollars in full for above ac.
$63.85. P. FITZGERALD.

Voucher # 26.

In Bibb Superior Court. In Equity.

GEORGE B. TURPIN, Guardian *ad litem*,
vs.
NATHAN BOZEMAN & WIFE.

Nov., 1869.

Exemplication to superior court	$26 00
Certificate	1 00
Remitter	1 00
Judgment	2 00
	$30 00

Rec'd, Nov. 9th, 1868, from Geo. B. Turpin, adm'r *ad litem*, thirty dollars in full of the above bill.

A. B. ROSS, *Clerk.*

Voucher # 27.

MACON, *Nov.* 23*d*, 1868.

486 Rec'd of Geo. B. Turpin, guardian, seven hundred and thirty-two dollars.
$732. JAMES A. RALSTON.

Voucher # 28.

MACON, *Dec.* 12*th*, 1868.

Rec'd of Geo. B. Turpin, guardian, seventy-five dollars, being half payment of taxes on Ralston dwelling.
$75.00. P. J. WILLIAMSON,
By F. TYE.

Voucher # 29.

George B. Turpin, guardian Jas. A. Ralston, to Macon Gaslight Co.

1868.

Sept. 15. To 1 barrel tar $3 00

Received payment from G. B. Turpin.

$3. HUGH McLEAN.

Voucher # 30.

Received from George B. Turpin, guardian, three hundred and fifty dollars ($350.00).

Jan'y 4th, 1869. JAS. A. RALSTON.

Voucher # 31.

MACON, GA., *Jan'y 5th*, 1869.

Received of Geo. B. Turpin, guardian for James A. Ralston, one hundred dollars, on ac. of insurance on property belonging to said Ralston.

$100.00. W. W. CARNES,
Insurance Agent.

Voucher # 32.

487 Received of Geo. B. Turpin, as guardian for James A. Ralston, the sum of two hundred and fifty dollars.

Jan'y 17th, 1869.

$250.00. LAURA R. SMITH.

Voucher # 33.

MACON, *Feb'y 15th*, 1869.

Received of Geo. B. Turpin, guardian, eight hundred and sixty-three $\frac{20}{100}$ dollars.

$863.20. JAMES A. RALSTON.

Voucher # 34.

Received of George B. Turpin, guardian of J. A. Ralston, five hundred and fifty dollars, for insurance on property belonging to said Ralston in square # 39, Macon, Ga.

$550.00. E. C. GRANNISS,
By H. M. GRANNISS.

[Written across the face:] Duplicate.

Voucher # 35.

MACON, GA., *Feb'y 15th*, 1869.

Received of Geo. B. Turpin, guardian for James A. Ralston, seventeen hundred and sixty-two dollars, for insurance on property belonging to said Ralston, situated on square 39, Triangular block, and on dwelling on Bond Hill.

$1,762.00. J. MONROE OGDEN,
Per J. L. POWERS.

Voucher # 36.

MACON, GA., *Feb'y 16th*, 1869.

488 Received of George B. Turpin, guardian, fifty-eight $\frac{30}{100}$ dollars ($58.30).

JAS. A. RALSTON.

Voucher # 37.

MACON, Ga., *Feb'y 17th*, 1869.

Received from George B. Turpin, my guardian, four thousand five hundred and three $\frac{18}{100}$ dollars in cash, it being the amount in his hands and due me at this date, for which I release him as my guardian.

$4,503.18. JAMES A. RALSTON.

In presence of—
J. MONROE OGDEN,
Notary Public, Bibb County, Ga.

Voucher # 38.

Received from George B. Turpin, guardian, three promissory notes, signed L. W. Rasdall & Co., for three hundred and twenty-five dollars each, due said Turpin, guardian, or bearer, six, nine, and twelve months from date, and dated Oct. 1st, 1868.

Three notes, signed L. W. Rasdall, for three hundred dollars each, and due six, nine, and twelve months from date, and dated Oct. 1st, 1868.

Three notes signed W. A. Huff, and due six, nine, and twelve months from date, and dated Oct. 1st, 1868, for six hundred and fifty —.

Three notes for three hundred dollars each, due six, nine,
489 and twelve months from date, and dated Oct. 1st, 1868, signed Porter & Hudgins and A. B. Small, sec'y.

Three notes signed Porter & Hudgins and A. B. Small, sec'y, for three hundred and twenty-five dollars each, and due six, nine, and twelve months from date, and dated Oct. 1st, 1868.

Three notes signed P. Fitzgerald, for three hundred and twenty-five dollars each, and due six, nine, and twelve months from date, and dated Oct. 1st, 1868.

Eight notes signed Dub & Spritz, for one hundred and eight $\frac{33}{100}$ dollars, and due five, six, seven, eight, nine, ten, eleven, and twelve months from date, and dated Oct. 1st, 1868.

Three notes signed L. W. Rasdall, for twenty-five dollars each, and due six, nine, and twelve months from date, and dated Oct. 1st, 1868.

Three notes signed Geo. W. Holmes, for thirty dollars each, and due six, nine, and twelve months from date, and dated Oct. 1st, 1868.

Three notes signed Simmons & Bacon, for thirty dollars each, and due six, nine, and twelve months from date, and dated Oct. 1st, 1868.

One note signed Havens & Brown, for fifty-eight dollars, and due five months from date, and dated Oct. 1st, 1868.

One note signed Havens & Brown, for sixty-two dollars,
490 and due six months from date, and dated Oct. 1st, 1868.

Six notes signed Havens & Brown, for fifty-eight dollars and due seven, eight, nine, ten, eleven and twelve months from date, and dated Oct. 3d, 1868.

Eight notes signed E. Price, p'r W. Price, for fifty-eight $\frac{33}{100}$ dollars each, and due five, six, seven, eight, nine, ten, eleven, and twelve months from date, and dated Oct. 1st, 1868.

Eight notes signed C. H. Baird, ag't, for fifty-eight $\frac{33}{100}$ dollars each, and due five, six, seven, eight, nine, ten, eleven, and twelve months from date, and dated Oct. 1st, 1868.

Three notes signed Theo. W. Ellis, for one hundred and seventy-five dollars each, and due six, nine, and twelve months from date, and dated Oct. 1st, 1868.

Three notes signed W. G. Harris, for three hundred and twenty-five dollars, and due six, nine, and twelve months from date, and dated Oct. 1st, 1868.

Three notes signed S. M. Seisel & Bro., for three hundred and twenty-five dollars each, and due first day of April, July, & October, 1869, all dated July 29th, 1868.

One note signed Havens & Brown, for two hundred and twenty-five dollars, dated Oct. 3d, 1868, and due five months after date, with a credit of one hundred and twenty-five dollars upon said note.

491 All the foregoing notes payable to G. B. Turpin, guardian, for James A. Ralston and for house rent.

Two accounts for rent, one against R. F. Lyons for forty dollars and one against Jno. B. Weems for forty dollars, both now due.

Forty-five dollars and seven cents in county scrip against Bibb county.

Two notes given to James A. Ralston, dec'd, for twenty-five hundred dollars each, payable in gold, dated Sept. 1st, 1863, which is secured by a mortgage given to the same party and bearing date with the notes and signed by Mrs. Mary Ann Lamar.

Nine stores, Ralston's Hall, and all the rooms, offices, &c., contained in said block, commencing at W. P. Nelson's store, on Cherry street, and extending round to the store now occupied by Burdick Bros. on Second street, with the land belonging to said stores.

Five stores on Triangular block, offices upstairs, &c., beginning at the First National Bank, on Cherry street, and including Theodore W. Ellis' store, which is partly on Cotton avenue, with the land belonging to them, the two blocks built of brick.

Whatever my undivided interest may be in the late residence and land of James A. Ralston *may be*, the same being in litiga-
492 tion now; whatever my undivided interest may be in the lands lying near Hughes Spring and race track, the same being undivided.

Also one note signed Rasdall & Co., for one hundred and twenty dollars, dated October 1st, 1868, and due twelve months from date.

One note signed T. H. Harris, and dated October 1st, 1868, due six months from date, for thirty dollars, & payable to George B. Turpin, guardian for James A. Ralston.

Two lots of land in originally Cherokee county, known as 68 & 155, both in the 12th dist., 84th section, each containing 160 acres, according to original survey.

One ac. against E. P. Granniss for rent & due for seventy dollars.

Ten city bonds for $500 each (city of Macon).

The foregoing being the property of every kind held and possessed or control-ed by my said guardian, consisting of real and personal property, for which I release him from all further liability as my guardian.

Feb'y 19th, 1869.

JAS. A. RALSTON.

J. MONROE OGDEN,
Notary Public, Bibb Co., Ga.

493 Bibb Court of Ordinary. May Term, 1869.

And now at this term comes Geo. B. Turpin, guardian of James A. Ralston, who was formerly a minor, but is now twenty-one years of age, and asks that letters of dismission be granted to him, as he has fully settled with his ward and turned over all his property and effects to him and that he has caused citation to issue and run in terms of the law, and that no objection has been made or filed in office, and, upon examination of his return and of his vouchers in office, it is shown that said guardian has paid his said ward over what money and other effects he has in his hands belonging to him.

It is, therefore, ordered that said guardian be dismissed from said guardianship and that letters of dismission do issue to him.

May 3d, 1869.

By the court:

C. T. WARD, *Ordinary.*

GEORGIA, *Bibb County:*

I, John A. McManus, judge of the court of ordinary of said county, do hereby certify that the foregoing fifty-four pages contains a true copy of letters of guardianship of George B. Turpin, as guardian of James A. Ralston, minor, returns and vouchers, and also letters of dismission of said George B. Turpin from his guardianship of
494 the estate of James A. Ralston, as appears of record in the ordinary's office of said county. I am myself clerk and only clerk of said court.

Given under my official signature and seal of office this May 14th, 1885.

[SEAL.] J. A. McMANUS,
Ordinary and ex Officio Clerk.

Endorsement: In U. S. circuit court, western division, southern district of Georgia. Ida Ralston *vs.* Geo. B. Turpin *et al.* Certified

copy of returns of Geo. B. Turpin, guardian of Jas. A. Ralston. Filed July 6th, 1885. L. M. Erwin, deputy clerk.

Letters of Dismission of Geo. B. Turpin as Guardian, &c.

GEORGIA, *Bibb County:*

By the honorable the ordinary of said county to all to whom these presents shall come or be made known, Greeting:

Whereas George B. Turpin, guardian of James A. Ralston, orphan of James Ralston, deceased, has made application for dismission from said guardianship, and, on examination of the management of the estate of the said James A. Ralston, orphan, having found all and singular the property of said estate which came to the
495 hands of George B. Turpin well and truly managed, as appears by the vouchers lodged in office, we do, therefore, in pursuance of the powers vested in us, hereby discharge, exonerate, and dismiss the said George B. Turpin from the guardianship as aforesaid; and, further, discharge, exonerate, and dismiss him from any recently entered into by and for James A. Ralston in consequence thereof.

Given under my official signature this third day of May, 1869.

[SEAL.] C. P. WARD, *Ordinary.*

Identified as introduced in evidence by respondent.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Certified Copy Letters Testamentary of Geo. B. Turpin on Estate Mrs. Aurelia L. Bozeman; Application, Order, and Letters of Dismission of said Executor from said Estate.

GEORGIA, *Bibb County:*

By the honorable ordinary of said county to all to whom these presents shall come, Greeting:

Know ye that on the sixth day of October, in the year of
496 our Lord one thousand eight hundred and seventy-three, the last will and testament of Mrs. Aurelia L. Bozeman, of said county, deceased, was exhibited in open court and in common form of law proved and admitted to record, a copy of which is hereunto annexed; and administration of all and singular the goods, chattels, credits, lands, and tenements of said deceased was granted to George B. Turpin, one of the executors in and by said will named and appointed, he having first taken the oath and performed all other requisites required by law. He is by order of said court and by virtue of these presents legally authorized to administer the goods, chattels, credits, lands, and tenements of said deceased according to the tenor and effect of said will and testament and according to law,

and he is hereby required to render a true and perfect inventory of all and singular the goods, chattels, credits, lands, and tenements of the said deceased appraised and returned to this court according to law, and to render a true and correct account to the ordinary of said county of his actings and doings yearly until his administration is fully completed.

In witness whereof I have hereunto set my hand and affixed the seal of my office this sixth day of October, 1873.

C. T. WARD, *Ordinary.* [SEAL.]

GEORGIA, *Bibb County:*

To the court ordinary:

The petition of George B. Turpin, executor of the last will
497 of Mrs. Aurelia L. Bozeman, showeth that he has fully discharged all the duties of said executors; that he has paid all the debts of his testatrix, Mrs. Aurelia L. Bozeman; has turned over the residue in his hands according to the will of his said testatrix, and has otherwise in all matters complied with the terms and provisions of said will.

Wherefore — prays the usual citation may issue, requiring all persons interested to show cause, if any they have, why he should not be discharged from his executorship, and while such citation is running his proceedings as such executor, may undergo a thorough revision by this court or some competent person appointed by it.

GEORGE B. TURPIN,
Executor Last Will of Mrs. Aurelia L. Bozeman,
By A. O. BACON, *Att'y.*

Bibb Court of Ordinary, at Chambers, Oct. 4th, 1878.

Upon hearing the within petition it is ordered that the usual citation be granted by the court.

J. A. McMANUS, *Ordinary.*

Bibb Court of Ordinary. July Term, 1878.

Whereas George B. Turpin has made application to the court of ordinary for letters of dismission as executor of the estate of Aurelia
L. Bozeman and citation has been duly issued and published,
498 and it also appearing to the court, from a thorough examination of all the proceedings of said George B. Turpin, as executor of said Aurelia L. Bozeman's estate, that he has fully and faithfully administered said estate and is legally entitled to a discharge as executor of said estate, and no objection being offered to his dismission, it is therefore ordered that he be discharged as executor of Aurelia L. Bozeman's estate, and that as evidence of this discharge letters of dismission issue to him.

By the court: J. A. McMANUS, *Ordinary.*

GEORGIA, *Bibb County:*

I, John A. McManus, judge of the court of ordinary of said county, do hereby certify that the foregoing printed and written pages (three in number) contains a true copy of the letters testamentary under the last will and testament of Mrs. Aurelia L. Bozeman, granted to George B. Turpin as one of the executors of said will, and the petition of said George B. Turpin for discharge from said executorship and the order granting the said George B. Turpin, executor, letters of dismission therefrom, as appears of record in the ordinary's office of said county. I am myself clerk and only clerk of said court.

Given under my official signature and seal of office this May 14th, 1885.

[SEAL.] J. A. McMANUS,
Ordinary and ex Officio Clerk.

499 Endorsement: In U. S. circuit court, western division, southern district of Ga. Certified copy — letters testamentary of Geo. B. Turpin on est. Mrs. Aurelia L. Bozeman, application, order, and letters of dismission of said executor from said estate. Filed July 6th, 1885. L. M. Erwin, deputy clerk.

Letter from J. A. Ralston to J. M. Ogden, June 24th, 1880.

STAMFORD, CONN., *June 24th,* 1880.

J. M. Ogden, Esq.

DEAR SIR: Your letter, with check, received; much obliged. When you come North I would be pleased to have you come out here and make me a visit. There are many fine residences and fine drives here. Let me know the day before you come out, so I may be at train.

Your friend, JAS. A. RALSTON.

Identified by Geo. B. Turpin as letter written by Jas. A. Ralston.
J. H. HALL.

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

500 *Letter from J. A. Ralston to G. B. Turpin of June 29th,* 1880.

STAMFORD, CONN., *June 29th,* 1880.

DEAR MR. TURPIN: Your letter of 25th received. In reference to hack house and roofs, borrow as much money as you want on dwelling on hill to fix up all as you wish it fixed. Get sufficient to make all necessary repairs on all the stores if you can. I hope Huff will pay the $450.

Your friend, JAS. A. RALSTON.

Introduced by respondent-; admitted by counsel for complainant and respondent- that body of letter is in handwriting of Ida Ralston; Jas. A. Ralston's signature thereto proven before me to be genuine.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Letter from J. A. Ralston to G. B. Turpin of July 28th, 1880.

STAMFORD, CONN., *July 28th*, 1880.

501 DEAR MR. TURPIN: I have not had the pleasure of Mr. Ogden's company yet, but I guess he is enjoying himself at Saratoga. Please send me three hundred ($300.00) dollars by the 5th of August. No news of any importance here. I am enjoying good health. Kind regards to your family.

Your friend,

JAS. A. RALSTON.

Introduced in evidence by respondents. Counsel agree that body of letter is written by Ida Ralston; signature of Jas. A. Ralston attached thereto proven to be genuine.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Letter from J. A. Ralston to G. B. Turpin of Oct. 1st, 1880.

STAMFORD, CONN., *Oct. 1st*, 1880.

DEAR MR. TURPIN: It is with deep regret that I read in your telegram of the death of your little daughter; would that it was in my power to alleviate your sorrow. I know it is hard to part with those we love, but the Almighty saw fit to fold your little darling to His breast as one of His lambs. She has gone to a far better
502 world—away from sin and sorrow. It is hard, but you must submit to the will of a just God. Your little son is saved; thank God for it, for He is not, as some people think in the hour of deep trouble, unjust. Express my deep, heartfelt sympathies to your family for their loss of little sister, and accept same from my wife, and your sincere friend,

JAS. A. RALSTON.

Identified by G. B. Turpin as having been received from Jas. A. Ralston, but both body of letter and signature thereto is handwriting of Ida Ralston.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Letter of J. A. Ralston to G. B. Turpin of March 9th, 1881.

STAMFORD, CONN., *March 9th*, 1881.

DEAR MR. TURPIN: I received a long letter from Mr. Ogden in reference to house. I don't understand the amount of money he requires to leave the house. First, he wants to put an addition on his house, build a carriage-house and servants' rooms, and
503 paint his house throughout. He states that will cost him one thousand dollars. Then he wants my mirror, chandelier, and the few articles of furniture. Now, Mr. Turpin, I am willing to do what is right, but I don't want to pay out all my money and have nothing for myself to buy me a home and fix my buildings in first-class order and settle all my debts. So now you can judge for yourself what I would have after everything is settled to get a home on, but, after thinking the matter over, I thought if you could borrow me twenty-five hundred dollars for my present use I would not dispose of the property until Mr. Ogden's lease expires, but if you and Mr. Ogden can come to any reasonable understanding and you can dispose of property at my price, twenty thousand dollars, do so and I will be satisfied.

I enclose you a letter from Mrs. Butler for your perusal; see if you can make out what she means. I would like the property taken out of the courts if you can do it without any fuss. See Mr. Whittle; as he sold the place, he will know all about the child question. If you can borrow the amount mentioned you can take out enough to put up the awning.

If you were here I could tell you more fully my wishes than I can by writing. Have you found out who it is that wants to purchase place? I hope you enjoyed your trip to New Orleans. Let me hear from you soon and what you think can be done; also in reference to enclosed letter.

504 Kind regards to your family.

Your friend, JAS. A. RALSTON.

Introduced in evidence by respondent-. Counsel for both parties think letter is written by Ida Ralston; signature of Jas. A. Ralston attached thereto proven genuine before me.

J. H. HALL, *Examiner.*

Filed in U. S. circuit court this July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Letter from J. A. Ralston to G. B. Turpin of March 29th, 1881.

STAMFORD, *March 29th*, 1881.

DEAR MR. TURPIN: I wrote you in answer to your letter some time ago; also asked for a statement, which I have not received. Will you please send me check for three hundred & fifty ($350.00)

dollars? I hope the parties have not backed out. I read of a retired Dr. wanting to buy and settle in Macon. Is he the one?

My wife joins me in kind regards to yourself & family.

Your friend, JAS. A. RALSTON.

505 Introduced in evidence by respondent-; agreed between counsel for both parties that body of letter was written by Mrs. Ralston; signature of Jas. A. Ralston attached thereto proven before me to be genuine.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Telegram from J. A. Ralston to G. B. Turpin of April 9th, 1881.

Dated Stamford, Conn., 9, 1881.
Received at ——, April 9.

To. Geo. B. Turpin:

Sale satisfactory. Come to Stamford & charge expenses if papers are to be signed to make title good.

JAS. A. RALSTON.

18. P'd.

Offered by respondent-.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

506 *Letter from J. A. Ralston to G. B. Turpin of April 18th,* 1881.

STAMFORD, CT., *April 18th,* 1881.

DEAR MR. TURPIN: We expect to leave here on the 27th of the month, and will need five hundred ($500.00) —. If you have not got it will you please borrow it, and I will pay the interest? I have to pay for some things which were broken in the house and pay our expenses and get a few spring clothes. I intend going to the Coleman House until I can get settled in the city, as I am undecided what I shall do. I am going to the city to-day to make arrangements. My health is splendid, but Ida has been ill all winter and is so still. I made no promise to my aunt to give her money; in fact, I have not seen her in one year. Daisy's baby died last Feb. I wrote you a letter a few days ago in reference to my aunt and the children. In case you do not get letter I will mention here that Jimmey is the eldest, then Annie, Daisy, and Charlie, who is the youngest and of age. Frank Chase is the name of Daisy's husband, and are all living in New York, at the same house, on 34th street.

My wife joins me in kind regards to you and family.

Your friend, JAS. A. RALSTON.

P. S.—Letter & papers received; will go down Tuesday a. m. & send it to you Tuesday night.

J. A. R.

507 Offered in evidence by respondent-; agreed between counsel for both parties that letter is written by Ida Ralston; the signature of Jas. A. Ralston proven before me.

JAS. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Dep. Clerk.

Letter from J. A. Ralston to G. B. Turpin of April 20th, 1881.

STAMFORD, CT., *April 20th*, 1881.

DEAR MR. TURPIN: I sent you the papers, all duly signed and sealed, by registered letter from New York yesterday. The spaces left, the commissioner says, you can fill out. I notice the arrival of my aunt in Macon. I hope you will not let her talk you into making any promises or to write to me, for I will not answer or make any promise whatever to her. I never told her I would give her money, and what I have given her was because I wanted to, and when I saw fit to stop it I did so; and when I get ready to give her money, if I have it to spare, I will do so, and not until then. I presume old Mrs. Butler wrote for her to come on, as she was going to sue me, as I don't know of any other motive for her going to Macon.

508 The game has commenced, so we may as well carry it on and see where it will end; this is as good a time as any. I wrote for five hundred dollars. Please send it so I can pay up my bills and move to New York. If you send it Saturday night I will not get it until Tuesday. I am trying to find a cheap boarding-house, as the hotel is too expensive. Wife joins me in kind regards to yourself and family.

Your friend, JAS. A. RALSTON.

Introduced by respondent-; agreed between counsel for complainant and respondent- that body of letter was written by Mrs. Ida Ralston; the signature of Jas. A. Ralston thereto proven before me to be genuine.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Letter from J. A. Ralston to G. B. Turpin of April 27th, 1881.

STAMFORD, CT., *April 27th*, 1881.

DEAR MR. TURPIN: Your kind letter received with enclosed
509 check. I am obliged for your kindness. Try and let me have balance by May 5th. It took all you sent to see me

through here. We leave here to-morrow (Thursday) for the city, and have engaged board at 26*th* East 23d street. I will write you in a few days. I have quit drinking for two years and hope to keep it.

Your friend, JAS. A. RALSTON.

P. S.—Send all letters c. o. H. E. Jones, 756 Broadway.

Identified before me as the signature of Jas. A. Ralston, and agreed between counsel for complainant and respondent- that body of letter is Mrs. Ralston's writing.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Letter from J. A. Ralston to G. B. Turpin of May 6th, 1881.

NEW YORK, *May 6th,* 1881.

DEAR MR. TURPIN: Your letter of 2d received and contents noted. If you can make any arrangements with my aunt and you think it best to come on do so. I would like to have a long talk with you, which I cannot do by writing you.

510 Your friend, JAS. A. RALSTON.

Offered in evidence by complainant; agreed between counsel for complainant & respondent- that body of letter is written by Mrs. Ida Ralston; signature proven to be that of Jas. A. Ralston.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Letter from J. A. Ralston to Aleck Block of Sept. 12th, 1881.

NEW YORK, *Sept. 12th,* 1881.

FRIEND BLOCK: I wrote you a letter last Saturday to show Mr. Turpin (but I was mistaken as to his leaving). He was here yesterday with Mr. Ogden, and I told him what I wanted done, so you can destroy letter.

Will you please send me a statement of insurance from Oct. 1st on each building and when due? Mr. Ogden will write you to send me check for fifty dollars, which you will please send as soon as possible.

Your friend, JAS. A. RALSTON.

511 P. S.—I would like to know what the bill for those chairs for Hall will be. When you see Mr. Clay give him my kindest regards and tell him I wrote him a long letter from Stamford which he never answered. Have T. & messenger sent to J. A. R., 756 Broadway, c. o. H. E. Jones.

Introduced by complainant; signature identified and proven genuine.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Letter from Ida Ralston to G. B. Turpin.

Mr. TURPIN: Will you please send for Mildred Barker and see if she will come on and cook for us this winter? I want her as soon as possible; will give her ($18.00) eighteen dollars per month and pay her passage on and back in the spring. Jimmy went home & forgot to sign, but it is all right. Pay her passage by car or boat. The cook we had got drunk and run away with money belonging to us. I am not very well yet, and will not be able to leave
512 hospital for two weeks yet. Got your letter. Everything is all right. I only told J. I was going to leave him to get him to stop drinking. I got him to stop for one year. I am so glad. Have Mildred come as soon as possible, for we have no cook & Jimmey is very much disappointed. Give her Josephine's address, and she will put her on the cars for Stamford—Josephine Pope, 412 Seventh avenue—hoping this will not be too much trouble. Kind regards from Jimmy and self.

Very truly, IDA RALSTON.

Introduced in evidence by respondent. Signature was proven as that of Ida Ralston.

JOS. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Letter from G. B. Turpin to Ida Ralston of Oct. 16, 1882.

Mrs. Ida Ralston.

DEAR MADAM: Yours of 10th received and contents noted. I regret very much to here you say you want a seperation from Jimmie. If — was you I would bear with him & try & get him to be — sober man; you have done it and I think you can again.
513 You ought not get mad at what Jimmie says; you know him, and he was the same way before you & him married. If you and Jimmie has to get in family quarrels I don't want to mix up in your family difficulty, & hoping you will continue to try & do for him & not turn against him—

Yours very truly, GEO. B. TURPIN.

Macon, Oct. 16th, 1882.

Offered by respondent-.

J. H. HALL, *Examiner.*

Geo. B. Turpin identifies the within letter as a copy of one he wrote to Mrs. Ida Ralston & put it in evidence.

Complainant's counsel objected to the letter being received in evidence on the grounds as follows: Because the original has not been accounted for & because no notice — given to produce it, & because it is illegal testimony.

JOS. H. HALL, *Examiner.*

The above objection withdrawn by complainant's counsel.

J. H. HALL, *Examiner.*

Filed in U. S. circuit court July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

514 *Letter from Ida Ralston to J. B. Turpin of Oct. 10th,* 1881.

NEW YORK, *Oct. 10th,* 1881.

G. B. Turpin, Esq.

DEAR SIR: Jimmey has just had a two-hours conversation with Mrs. Smith, and he is anxious I should write you some of the particulars. She said I could not by law take up those notes without Dr. Bozeman did the same, and that she would fight it through. She tried to impress it on Jimmey's mind that you and I were working together to get him to sign over everything to me, and then we were going to put him in a lunatic asylum and keep him there until he died; we were weaving a plot and he would walk right into it. He told her that I would sue her and make her prove it all in open court. She was taken aback. He told her that he did not own one dollar's worth of property; that everything was signed over to me. When he told her that she could have killed him, she was so angry. She prayed, in his presence, that when you or your children passed under the buildings that the bricks would tumble down on you and kill you, and she said she was in that nasty dirty theatre and had to get out; there was not a decent place to sit down, and that your son was door-keeper. She is a terrible woman. You must
515 look sharp to see there is no loop-hole that she can make use of, for she is on the war-path.

Mr. Washburne has raised our board to $42 per week, so I got mad and told him he could have his room. I went out to-day and found a very pretty new brown-stone of 10 rooms, at $600.00 per year, cor. of 105th & Lexington avenue, so I will furnish it myself and have made arrangements to furnish on 15 Oct., on twenty days' special credit, so if Mrs. Smith don't send in papers after court sits take out her share and send me balance, as I will need it for furniture. I think by going so far up will keep him from his old habits. He is trying to keep sober; cannot say how long it will last. I think it best to send pictures care H. E. Jones. Hoping to hear from you soon — Jimmey joins me in kind regards to you and family—

Your friend, IDA RALSTON.

Identified by Geo. B. Turpin as original letter written by Ida Ralston.

JOS. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk U. S. Circuit Court.

516 *Letter from J. A. Ralston to G. B. Turpin of Oct.* 27, 1881.

NEW YORK, *Oct.* 27*th*, 1881.

DEAR MR. TURPIN: I sent you the receipt for the ten thousand dollars two weeks ago; also sent for statement. As I have not heard from you I fear it has not reached you. If it has please send the statement as soon as possible.

Ida received your letter and will not pay any attention to anything Mrs. Smith may say.

We are having splendid weather for the last few days, clear and cold.

I heard of the great success of the State fair; hope it will benefit you and our city. Did you win at the races? Let me hear from you soon.

My wife joins in kind regards to you and family.

Your friend, JAS. A. RALSTON.

Identified & offered in evidence by respondent-; signature proven to be genuine.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

517 *Letter from J. A. Ralston to G. B. Turpin of Nov'r* 11*th*, 1881.

NEW YORK, *Nov.* 11*th*, 1881.

DEAR MR. TURPIN: Your letter rec'd some time ago, but failed to answer before. I think it best to let taxes go over until January rents and send me balance due. My wife received your telegram to-day and is very much obliged, as she needs the money very much. Please let her know when she will get her money, as she needs it to pay for her furniture and clothing. Please ask Mr. Ogden to send me the one hundred dollars that is past due for rent, as he knew at the time he received my thousand dollars that he owed me the above amount. I have not had a statement from Mr. Block. I would like to have one before this month is out. I am glad you are going to keep a separate ac. of hall; then I can better understand how much it will cost for repairs and what rents are taken in. Let me hear from you soon.

My wife joins me in kindest regards to yourself and family.

Your friend, JAS. A. RALSTON.

Signature identified & proven genuine before me—
JOS. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

518 *Telegram from J. E. Graybill to Turpin of Dec. 17th, 1881.*

Dated New York, Dec. 17th, 1881.
Received at ——, 8.18 p. m.

To Geo. B. Turpin:

James A. Ralston directs me to notify you not to send any more money to his wife.

JAS. EDWARD GRAYBILL, *Att'y.*

17; paid ½, P.

The within telegram identified by Geo. B. Turpin as original telegram received by him.

Objected to by complainant's counsel because there is no evidence that Graybill had authority to sign it.

JAS. H. HALL, *Examiner.*

Filed in U. S. circuit court this 6th day of July, 1885.

L. M. ERWIN,
Deputy Clerk.

Papers Offered in Evidence by Complainant before Joseph H. Hall, Examiner.

Letter from G. B. Turpin to J. A. Ralston of April 14th, 1881.

APRIL 14TH, 1881.

519 DEAR JIMMIE: Yours 11th rec'd & contents noted. I send you check on New York in your favor as requested. Mr. Bacon says go before a commissioner of Georgia of deeds, you & your wife, in New York, & sign the oath before him of the bill in equity I send you & return to me, as I want to have in time for the April court to get our title to the house, & don't want to put it off. You can go before the same man at #117 Broadway, New York; & at the same time I send you a deed to sign of the same property you deeded to me for my children, as it is not as it should be written, Col. Bacon says, & it is the same thing, only the deed is informal, & we might as well have it right, as you are going to New York, & I will pay the expenses, & I hope to get the sale & the house matter fixed up as soon as the court meets, & Mrs. Smith & her children have to be given notice, & Mr. Bacon will write her & explain it to her, so I hope she will acknowledge service & give us no trouble & not delay it. Mr. Bacon has put down on the bill in equity where you are to sign it & where your wife is to sign, so you can do so & return. Please attend to this, & I think after we get this & get the money you had better purchase a house for yourselves there or

somewhere; you may want one, & I think the court will require ten thousand invested in other property, in the event your wife should die, to protect Mrs. Smith & her children's interest in the will, & that will make no difference to you, only be better than paying rent.

My kindest regards to yourself & wife.

Your friend, GEO. B. TURPIN.

520 Identified as copy of copy letter offered by complainant under agreement with respondent-.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Letter from G. B. Turpin to J. A. Ralston of April 28th, 1881.

Geo. B. Turpin. J. Monroe Ogden.

Office of Turpin & Ogden, commission merchants, real estate and insurance agents.

MACON, GA., *Ap'l 28th,* 1881.

DEAR JIMMIE: I have just wrote to Dr. Bozeman and now write to you the same. Mrs. Smith has filed a bill, through her att'ys, Lanier & Anderson, in court praying for injunction to stop the sale of any more property of Nathan Bozeman and Jas. A. Ralston, and the judge has granted a temporary restraining order to be heard on 7th May, 1881. The bill is also one for relief and alledges that Jas. A. Ralston and Mrs. Bozeman agreed to pay her $2,750.00, and that they have failed to do so; that she has never been settled with as an heir of her father, and prays for a decree for one-half of the property. Mess. Bacon & Rutherford—they say there is no
521 merit in her bill, but I write for directions and for authority to employ counsel. You can write me at once what to do—if I shall employ counsel, and you & Dr. Bozeman will have a copy of the bill. I am at a loss to know what to do without consulting you and Dr. Bozeman. Mrs. Smith has proposed to say to me on Monday next what amount she will take in compromise and stop all proceedings & relinquish all claims. If no compromise is effected with her I should have some authority from you to employ counsel to represent your side of the case, which, I think, is strongest, from what Bacon & R. say.

We cannot get ready by 7th May to answer that long bill. I can get Bacon & R. to put it off untill we have time. If Mrs. Smith will offer anything in reason in the way of compromise I will come right away to New York to see you and Dr. Bozeman; if not, I will write you and Dr. Bozeman on Monday next, or soon as get answer from her.

Mrs. S' kindest regards to yourself & wife.

P. S.—She says to me she has plenty of money to fight her case and is in no hurry.

Your friend, GEO. B. TURPIN.

Identified as introduced in evidence by complainant.
J. H. HALL, *Examiner.*

Filed July 6th, 1885.
L. M. ERWIN,
Deputy Clerk.

522 *Letter from G. B. Turpin to J. A. Ralston of June 14th, 1881.*

Geo. B. Turpin. J. Monroe Ogden.

Office of Turpin & Ogden, commission merchants, real estate and insurance agents.

MACON, GA., *June 14th,* 1881.

DEAR JIMMIE: After so long a time to-day is first time we have ever got the papers fixed to our satisfaction. Now, Mrs. Smith leaves for New York to-night with the papers, and will turn them over to Dr. Bozeman, and I wrote him when he wanted you to send for you, and he will explain it. Mrs. Smith don't speak to me, she is so mad with me, and now let me give you a little advice. Don't say nothing about her or her children and nothing to them, wait untill it is all settled, and be sure don't say nothing in the presents of any one, as your wife told you that day. My kindest regards to yourself & wife.

Your friend, GEO. B. TURPIN.

Identified as introduced in evidence by complainant.
J. H. HALL, *Examiner.*

Filed July 6th, 1885.
L. M. ERWIN,
Deputy Clerk.

523 *Letter from G. B. Turpin to Ida Ralston of June 25th,* 1881.

Geo. B. Turpin. J. Monroe Ogden.

Office of Turpin & Ogden, commission merchants, real estate and insurance agents.

MACON, GA., *June 25th,* 1881.

Mrs. Jas. A. Ralston.

DEAR MADAM: Yours of 21st rec'd & contents noted. Enclosed you will find check on Hanover Nat'l Bank for $360.00 in your favor, as requested. If you all keep overdrawing in this way I am at a lost to know when you will get even. I am more than sorry to think Jimmie will not keep quiet and keep straight until we get out of this trouble. Tell him to say nothing and talk less, as I have wrote to Dr. Bozeman, and when Dr. Bozeman gets it all straight he will let him know. Mrs. Smith's agreement was to allow us to take up notes at 7%, and now wants to change it to 6%. I telegraphed, Dr. Bozeman knows the agreement, and let Mrs. Smith & her chil-

dren stand to it; her lawyers knows it is so, & her friends in Macon also. Tell Jimmie to talk nothing to them; have nothing to say about it, and consult only with Dr. Bozeman, as himself & Jimmie are the same interest, and, above all things, not to drink or get on a spree until we get through and all settled up, and I think you and Jimmie had better stay in New York untill it is settled. I
524 have no doubt but what Mrs. Smith will come up yet to her agreement, but if she finds out Jimmie is drinking and spreeing she may want to try squees so- more. Tell Jimmie to take my advise and do as I tell him. My kindest regards to him & yourself.

Yours truly, GEO. B. TURPIN.

Identified as introduced in evidence by complainant.
J. H. HALL, *Examiner.*

Filed July 6th, 1885.
L. M. ERWIN,
Deputy Clerk.

Letter from G. B. Turpin to J. A. Ralston of Sept. 29th, 1881.

Geo. B. Turpin. J. Monroe Ogden.

Office of Turpin & Ogden, commission merchants, real estate and insurance agents.

MACON, GA., *Sept. 29th*, 1881.

DEAR JIMMIE: Yours of 25th rec'd & contents —. I sent your check & statement on yesterday and receipts, except Dr. Mettaur, which I enclose for $50 to-day. If you remember, Bacon & Rutherford is to be paid $100.00 in each case, making $200.00; $100.00 more to Dr. Mettaur, and on Oct. 1-4, when Ogden- $100 rent — due, I
525 shall collect and apply to one of them. Now, don't fool the money away and keep straight. I have looked for your old will to send you, but I think I must of left it in Stamford when I was there. If I did not I shall look at home for it; as soon as I find, will send it on, but the will I send you as directed, when signed, kills all others, anyhow. I paid Proudfit $15.00 to draw it, and when you go to sign don't forget the directions about the number of witnesses. I will tell Ogden about shiping the pictures. My kindest regards to yourself & wife.

Your friend, GEO. B. TURPIN.

Identified as signed by Turpin by A. Block.
G. W. GUSTIN, *Examiner.*

Identified as introduced in evidence by complainant.
J. H. HALL, *Examiner.*

Identified by Geo. B. Turpin before me.
JOS. H. HALL, *Examiner.*

Filed July 6th, 1885.
L. M. ERWIN,
Deputy Clerk.

Letter from Ida Ralston to G. B. Turpin of Oct. 10th, 1882.

526 NEW YORK, *Oct. 10th*, 1882.

G. B. Turpin, Esq.

DEAR SIR: I intended when you were here to tell you what I did in reference to the property. I called at your hotel, but found you were out, and when you called at the house it was impossible to talk business while Jimmey was acting like a lunatic.

From the manner in which Jimmey treated me I was forced to see a lawyer to try & get a reparation. I showed my lawyer the papers about the property and he told me I would have to get the agreement and papers on which they were served on the Fitzgerald store from the clerk of the court; he dictated a letter to that effect which I sent to Mr. A. Ross, which he has not acknowledged. I should not have done this, only Jimmey made threats when sober that the papers would not hold good, as there was no deeds, and before I should derive any benefit from them he would go to his aunt and show her where she could bring in a claim and get them. I think it hard, after all the trouble I have had with him, that he should show such a mean and vindictive disposition. I must look out for my future as well as any one else. I am not young or in the best of health. Jimmey made so many fair promises after you left of keeping sober fore one year that I felt sure he was in earnest; he kept it just long enough for me to get out of the Windermere, and since we came to our present boarding place has not been
527 sober one day; my patience is completely worn out trying to keep him quiet from disturbing the people in the house. He has made up his mind to go South this winter, and I am sure he will.

Mr. Turpin, you will do me a great favor if you will see that everything is right in regards to those papers on the property. I know you will not tell me anything but wat is right. This is what I wanted to talk to you about. I don't want you to think for a moment there is any underhand work. What I did was through the advice of a very able lawyer, who, I am sure, would not tell me to do aught but what was right. When Jimmey gave up drinking I dropped the case, but I am afraid I will be compelled to renew it. Jimmey had been consulting with Mr. Grayhill and he wishes to see me at his office on the 12th. If Jimmey will agree to my or rather the lawyer's proposition to sign an oath and give bond to quit liquor for one year there will be no cause to separate. I am sure when he finds I am positive in what I say and do he will come to my terms. I write this in confidence, and if you deem it worthy a reply I would be pleased to hear from you. J. has all letters sent to 756, c. o. H. E. Jones, but send mine to c. o. 225 West 31st St. With kind regards and best wishes for your welfare,

Yours very truly, IDA RALSTON.

The within letter identified by Geo. B. Turpin as having been written by Mrs. Ida Ralston.

JOS. H. HALL, *Examiner.*

528 Filed in U. S. circuit court July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Affidavit of J. A. Ralston before L. Fucot, Not. Public.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

James A. Ralston, being duly sworn, deposes and says that he will promise not to take any spirituous or intoxicating liquor from this the 24th day of January, 1880, to the first day of May, 1880.

JAS. A. RALSTON.

Subscribed and sworn to before me this twenty-fourth day of January, 1880.

[SEAL.]

L. FUCOT,
Notary Public, N. Y. Co.

Identified as introduced in evidence by complainant.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Affidavit of J. A. Ralston before S. H. Cohen, Not. Public.

529 STAMFORD, CONN., *Nov. 13th,* 1880.

J. A. Ralston, now of Stamford aforesaid, personally appeared before me, the undersigned, a notary public in and for the State of Connecticut, and upon his oath doth say that he will not, for the space of twelve months from the date hereof, drink any intoxicating liquors of any kind, except while said Ralston is at dinner.

JAS. A. RALSTON.

Subscribed and sworn to before me upon the day and year first above written.

[SEAL.]

SAM'L H. COHEN,
Notary Public.

Identified as introduced in evidence by complainant.

J. H. HALL, *Examiner.*

Filed July 6th, 1885.

L. M. ERWIN,
Deputy Clerk.

Promise of J. A. Ralston to Wife Not to Partake of Liquors, &c.

I, James A. Ralston, of the city of New York, do hereby solemnly promise and agree to and with Ida Ralston, my wife, not to partake of any intoxicating liquor of any kind whatsoever during and for a period of six months from date hereof; and to keep this my promise I pledge my sacred word of honor.

530 Dated at New York the 25th day of February, A. D. 1882.

JAS. A. RALSTON.

In presence of—
JAS. EDWARD GRAYHILL,
Notary Public, N. Y. Co.

Identified as introduced in evidence by complainant.
J. H. HALL, *Examiner.*

Filed July 6th, 1885.
L. M. ERWIN,
Deputy Clerk.

Telegram from G. B. Turpin to Ida Ralston of July 5th, 1883.

Received at Montclair July 5th, 1883.
Dated Macon, Ga.

To Ida Ralston, Harrison Ave.:

Have body prepaid & send by express. Advise me by telegram when shipped and by what route, so that I can meet it. Let me know if anything else necessary.

GEO. B. TURPIN.

Identified as introduced in evidence by complainant.
J. H. HALL, *Examiner.*

Filed July 6th, 1885.
L. M. ERWIN,
Deputy Clerk.

531 *Clerk's Certificate to Transcript.*

UNITED STATES OF AMERICA,
Western Division, Southern District of Georgia, } ss:

I, H. H. King, clerk, by Lenoir M. Erwin, deputy clerk, of the circuit court of the United States for the Western division of the southern district of Georgia, do hereby certify that the writing annexed to this certificate is a full, true, correct, and complete transcript of the record and copy of the proofs and proceedings in the equity cause of Ida Ralston, complainant, and George B. Turpin, trustee, *et al.*, defendants, lately pending in the fifth circuit court of the United States for the Western division of the southern district of Georgia, and appealed by the complainant to the Supreme Court

of the United States, as the same remains of record and of file in my office.

In witness whereof I have hereunto set my hand and affixed the seal of the said court, at Macon, Georgia, this twenty-first day of September, A. D., eighteen hundred and eighty-five, and in the 110th year of the Independence of the United States of America.

[Seal U. S. Circuit Court, So. Dist. of Georgia, West'n Div.]

H. H. KING, *Clerk*,
By L. M. ERWIN,
Deputy Clerk.

532 By the Honorable Emory Speer, judge of the United States district court for the southern district of Georgia, presiding in and holding the circuit court for the western division of said district, to George B. Turpin, as trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, and also to the said William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin:

Whereas Ida Ralston has lately appealed to the Supreme Court of the United States from a decree lately rendered in the fifth circuit court of the United States for the western division of the southern district of Georgia, made in favor of you, the said George B. Turpin, as trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, and also in favor of you, the said William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, and has filed the security required by law, you are therefore hereby cited to appear before the said Supreme Court, at the city of Washington, on the second Monday of October next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand whilst holding the fifth circuit court of the United States for the western division of the southern district of Georgia, on this the 8th day of July, in the year of our Lord one thousand eight hundred & eighty-five.

EMORY SPEER,
U. S. Judge.

533 [Endorsed:] U. S. circuit court, western division, so. dist. of Ga. Ida Ralston *vs.* George B. Turpin. Citation. Filed July 20, 1885. L. M. Erwin, dep. clerk.

MACON, GEORGIA, *July 20th*, 1885.

Due and legal service of the within citation this day acknowledged, and also the receipt of a true and complete copy of the same is acknowledged from the hands of counsel for appellants.

BACON & RUTHERFORD,
Sol's for Defendants Named in Bill and Appeal.

534 UNITED STATES OF AMERICA,
Western Division, Southern District of Georgia:

In the Fifth Circuit Court of the United States.

I certify that the foregoing citation is the true original citation filed by counsel for the appellants with the acknowledgement of service as appears thereon, on the twentieth day of July, A. D. 1885, in the clerk's office of said court; and I further certify that the May term, 1885, was not adjourned until the second day of September, 1885.

Witness my hand and official seal of the said court this the twenty-first day of September, in the year of our Lord one thousand eight hundred and eighty-five.

[Seal U. S. Circuit Court, So. Dist. of Georgia, West'n Div.]

H. H. KING, *Clerk,*
By L. M. ERWIN,
Deputy Clerk.

535 *Supplementary Transcript, Embracing the Opinion Delivered by the Judge Presiding in the Circuit Court.*

IDA RALSTON, Appellant, *vs.* GEORGE B. TURPIN, Trustee, *et al.*

Appeal from the circuit court of the United States for the western division of the southern district of Georgia.

536 *Opinion of the Court.*

In the Circuit Court of the United States for the Western Division of the Southern District of Georgia. In Equity.

IDA RALSTON *vs.* GEORGE B. TURPIN, Trustee, *et al.*

Tried before the Hon. Emory Speer, judge of the United States court, at the May term, 1885, of said court.

Solicitors for complainant, Lanier & Anderson, Washington Dessau; solicitors for respondents, Bacon & Rutherford, Hill & Harris.

The complainant, Ida Ralston, a citizen of the State of New York, prefers her bill against George Turpin, as trustee of his children, against William C., Frank M., George B., and Walter H., the children of said George B. Turpin, the *cestui que trusts*, all of whom reside within this jurisdiction. The object of the bill is to have
537 cancelled certain deeds of gift made to the respondents by James A. Ralston, who was husband of complainant, to recover the premises conveyed by the deeds, and for the rents, etc.

The property involved consists of five business houses, with the lots upon which they are situate, on Cherry street, in the city of Macon, known as the Ralston Hall property. The value of this

realty is between forty and fifty thousand dollars. James A. Ralston, Jr., died on the fourth day of July, 1883. He had inherited from his parents a very valuable estate, consisting largely of valuable city property in Macon.

The bill alleges that James A. Ralston, Jr., had not attained his majority at the time he became the owner of this large estate, and that at the September term, 1867, of the court of ordinary of Bibb county the respondent, George B. Turpin, was appointed his guardian, having been selected as such by Ralston.

In the month of March, 1870, the mother of James A. Ralston, Jr., Mrs. Aurelia L., who in the meantime had married Dr. Nathan Bozeman, made her will, in which she bequeathed to James A. Ralston, Jr., a large estate, and named George B. Turpin as one of the executors. Turpin qualified and acted in both capacities. The
538 bill charges that Turpin "ingratiated" himself in the confidence of Mrs. Bozeman and acquired a large influence over young Ralston, who, it is alleged, had little capacity for the affairs of business. Ralston became 21 years of age in 1869. Turpin very soon thereafter made his final settlement as guardian—*i. e.*, on the — day of ——, 1869, and delivered to Ralston his entire estate and took his receipt therefor. Turpin, who was a real estate agent, in partnership with J. Monroe Ogden, continued to manage the estate of young Ralston, which consisted almost entirely of the business houses in Macon. James A. Ralston, Jr., was an extravagant, dissipated, and dissolute man, and Turpin, it is charged, acquired undue influence with him owing to their confidential relations, and finally went North, where Ralston was, and induced him to make a deed of gift on the 26th of August, 1880, and the subsequent deeds in confirmation, which second deed it is the object of the bill to nullify. One of these deeds is dated August 28th, 1880, and the other April, 1881, and conveyed, it is alleged, the more valuable portions of his estate, worth between forty and fifty thousand dollars.

Previously to this conveyance, to wit, in January, 1880, the
539 complainant was married to Ralston and was, at its date, living with him at Stamford, in the State of Connecticut. She alleges that Turpin came to Stamford, where the first deed was made, and persuaded him to make the deed, and that, in consequence of his importunities, Ralston, being in declining health and weakened mentally and physically by dissipation, consented to sign the deed which Turpin had prepared and brought with him. The complainant, being herself under the influence of Turpin and willing to do anything to conciliate and gratify him, as well as indisposed to oppose her husband, consented to unite in the deed and to relinquish her rights in the premises conveyed. The complainant and her husband, Ralston, went with Ogden, the partner of Turpin, who was also in Stamford, to Bridgeport to find a commissioner of deeds for the State of Georgia before whom the conveyance could be executed. Finding no such official there they went thence to New York, where the deed was signed both by Ralston and the complainant herself. A deed to correct a verbal error in the draft of the first deed was also executed in New York two days thereafter,

and in the month of April, in the next year, another deed was forwarded by the mail and was executed by Ralston and com-
540 plainant and returned to Georgia. Copies of these deeds are annexed to the bill and they all convey the same property to Turpin in trust for his children, the co-respondents, Ralston reserving the incomes during his life.

A good deal is said in the bill about a compromise had subsequently to the execution of these deeds between Ralston or Turpin, acting for him, and Dr. Bozeman, the second husband of his mother, on the one part, and a Miss Laura R. Smith, an aunt of Ralston, on the other part, which compromise settled a disputed claim which Mrs. Smith had against the estate of Ralston's father, but, as the court is unable to perceive any relevancy in this matter to the issues presented by the bill and answer, other reference to such compromise will be pretermitted.

It is true that this settlement placed an incumbrance on the estate of complainant's husband, and that he paid $2,500 to discharge a portion of the lien which attached to the property previously conveyed to Turpin, but this cannot relate back and affect the validity of the deeds on the issue presented by the bill.

It is further charged that Ralston from mental weakness was incapable of making a deed; that the deeds were obtained by
541 the undue and controlling influence of Turpin, and that they were wholly without consideration, and the bill prays that the deeds may — cancelled and that the respondents be decreed to account for all the rents, issues, and profits from the date of the execution of the deeds to the date of the decree, and for general relief; discovery is waived.

The answer of the respondent, George B. Turpin, as trustee, outlines the defences to the bill. Turpin admits his intimate friendship not only with James A. Ralston, Jr., but with his father, James A. Ralston, Sr., and that he was the confidential friend and business manager of the latter to the date of his death in 1865. He was also the intimate friend of Ralston's mother and was appointed by her the executor of her will in 1873; that he was appointed the guardian of young Ralston, having been designated as such by the latter in 1867, when Ralston was 19 years of age. He finally, as such guardian, sett-ed with Ralston when he became 21 years of age, and was dismissed by the court of ordinary on the 3rd day of May, 1869. He admits and emphasizes the charges of complainant's bill as to the warm and cordial relations of friendship and confidence which existed in the heart of young Ralston toward himself, and in-
542 sists that they were merited by his own conduct and by his devotion to Ralston's interests. He avers that Ralston, on account of the unusual and most disinterested friendship which existed between himself and the respondent and the valuable and continuous services rendered by respondent to Ralston and to his family, had voluntarily and without solicitation early formed the intention to make large and generous provision for the children of respondent; that Ralston, having no immediate relatives whom he desired to make the recipients of his bounty, had uniformly declared his in-

tention that the respondent's children should, at his death, receive a large portion of his estate. He specially sets out the fact that when Mrs. Aurelia L. Bozeman, the mother of Ralston, came to make her will in 1873 she said to respondent that she had intended to provide for him in her will, but that her son "Jimmie" had informed her that he would provide amply for Turpin in his will, and the fact that in 1874 young Ralston made his will and bequeathed to Turpin, in trust for Mrs. Laura R. Smith, one-half of his estate and to Turpin, for himself and in trust for his children, the other half, which half embraced the identical property conveyed by the deeds attacked by the bill.

543 That, in further pursuance of his intention to endow the children of respondent with this property, on the 17th of December, 1879, five years thereafter, Ralston made another will, in which he conveyed the same property to Turpin's children, omitting from its beneficence, however, one of the daughters of Turpin, who, in the meantime, had married a Mr. Home, who was objectionable to Ralston, and devising the remaining half to complainant, Ida Blanchard, who, in a few weeks, would become Ida Ralston. The respondent, answering, avers that he was not in any manner consulted by Ralston as to either will, and declares that his daughter, who was not included as a beneficiary of the last will, would never have been omitted had Ralston consulted respondent to ascertain and to act upon his wishes. This child was also omitted in the three deeds subsequently executed by Ralston. The answer admits that Ralston was a young man of intemperate and dissolute habits, but alleges that when not intoxicated, or when drinking with moderation, *that* he was entirely competent to properly conduct his business affairs and to intelligently dispose of his property. Respondent,

544 after his guardianship had terminated, was retained by Ralston to collect rents, make rent contracts, and in a general way, as the real estate agent, to manage all of his business, which the respondent, with his partner, undertook and carried on to the day of Ralston's death, charging the usual commission therefor.

Respondent avers that from disinterested friendship for Ralston he used all his influence to restrain Ralston from intemperate habits and low and evil associations, with, however, but little success.

He avers that Ralston became infatuated with the complainant, who was at the time and for several years thereafter a lewd woman and the regular inmate of a common house of ill-fame in the city of Macon, kept for the purpose of prostitution. Complainant was known as Ida Blanchard. Respondent avers that he used all the persuasive and influential means which could be compassed by him to break the spell of this association. The friends and relatives of Ralston labored to the same end, but the influence of the complainant overcame the efforts of the respondent, even when united to that of the relatives and friends of Ralston; that the complainant induced Ralston to go North with her, and finally, in the early part of 1880, to make her his wife.

545 The respondent learned in 1880, while at Saratoga, that there were strong reasons to believe that Ralston had married

complainant, although he still hoped it was not true. He determined, however, to go to Stamford, in Connecticut, where Ralston and the complainant were keeping house together, to learn the true facts and to ascertain whether, by this reputed marriage, Ralston had revoked the will heretofore made in behalf of the respondent's children. He, accordingly, went to Stamford. He saw Ralston and the complainant and learned from them both that they were in truth legally married. During his visit the respondent, in the presence of the complainant, reminded Ralston that his marriage with complainant had revoked the will of 1879, and asked if Ralston still intended to give the property to his (respondent's) children. Ralston replied unhesitatingly that it was his intention so to do.

The will of 1879, it is claimed by respondent, had been made by Ralston a very short time before the marriage, and it also gave to Ida Blanchard, soon to be Ida Ralston, the half of the property which had been devised in the will of 1874 to Mrs. Laura R. Smith, whose place in the testamentary inclination of Ralston had been usurped by the complainant; but the children of Turpin still
546 maintained this position in his affection and in his scheme for the disposition of his property. Respondent alleges that Ralston and Mrs. Ralston went with Mr. Ogden to Bridgeport in search of a commissioner before whom the deeds to land in Georgia could be properly executed. Finding none there they all went to New York, where the two deeds of the 26th and the 28th were formally signed and delivered. The third deed was drawn in Georgia eight months later and was forwarded to Ralston, who was then in New York. It was duly executed by Ralston and his wife and returned to the respondent. Turpin denies that he made any representations to Ralston, alleged to have been made at the time the first deed was agreed upon. He denies all the allegations of undue influence and asseverates that when the two first deeds were executed Ralston was perfectly sober and rational, and that he believes him to have been in the same condition when the last deed was executed. To show his great friendship for Ralston, he alleges that he did not charge or take from him some three thousand dollars as commission on the estate of his mother, of whose will Turpin was the executor. He avers that after all the transactions here described, of which his children were the beneficiaries, Ralston made a deed to
547 the complainant conveying two valuable lots, with the storehouses, in the city of Macon, which property the complainant has since held and enjoyed, and also conveyed to his aunt, Mrs. Smith, other valuable property in Macon under a settlement effected for him. The answer is a stout denial of every material fact alleged in the complainant's bill, and the issues presented are mixed questions of law and fact.

The causes indicated by the complainant and urged as reasons why the several conveyances from Ralston to Turpin as trustee should be cancelled and nullified are, first, the want of that degree of mental soundness which a man must possess to enable him to bestow his property upon another; and, secondly, the undue and paramount influence which Turpin is said to have exercised both upon Ralston

and his wife. While much evidence has been presented bearing upon both propositions, the solicitors for either party have seemed to argue with far more elaboration the law and the evidence relating to the obligation of undue and controlling influence.

The rule relating to the question of mental weakness is stated with great precision and clearness *of* Mr. Justice Field, in delivering the opinion of the Court in the case of Allore *vs.* Jewell, 94 United States, 511:

548 "It may be stated as settled law whenever there is great weakness of mind in a person executing a conveyance of land, arising from age, sickness, or any other cause, though not amounting to absolute disqualification, and the consideration given for the property was grossly inadequate, a court of equity will, upon proper and seasonable application, set the conveyance aside."

A fortiori, it would seem, as contended in the concluding argument for complainant, a voluntary deed, without other consideration than friendship and intimate personal relations, would be even the more closely scrutinized where great mental weakness is alleged.

It is, of course, incumbent upon the complainant to show by evidence this "great mental weakness" at the time the deeds were executed—that is to say, on the 26th and 28th of August, 1880, and the 14th of April, 1881, or so nearly thereto as to affect transactions occurring on such occasions.

The first witness whose evidence was introduced upon this feature of the case was James Olmstead, an attorney-at-law at Stamford, Connecticut. Mr. Olmstead saw Ralston once only, and in February or March, 1881. He had been drinking heavily and was in maudlin tears at the time the witness saw him. He promised anything,
549 took an oath to keep the pledge, was loud in praises of his wife and in denunciation of himself. He seemed physically weak and stated that he had suffered from "tremens" several times. The witness concluded that his will power was totally gone. This evidence is clearly not satisfactory, and proves nothing except that Ralston had been drinking heavily and was drunk then. The picture drawn by the witness is, unfortunately, no unusual spectacle. The lugubrious penitence of a drunken man is so far from serious mental derangement that it has become a part of the stock incident of humorous writers of fiction.

A few days' or hours' abstention from drink with proper medical treatment would have restored to Ralston the possession of his usual faculties. Undoubtedly had the deeds been executed at this moment when the witness saw Ralston they would be held invalid, but the condition described by the witness does not necessarily or naturally argue continued great mental weakness.

Sarah H. Hubbard describes with the indignation of a good woman Ralston's fits of intoxication, and gives her opinion that he was unable to attend to any business from April, 1880, to April, 1881. This testimony is of little value. Had Ralston been
550 continually in the extreme condition of drunkenness in which she describes him and as weak physically as she describes him no medical skill could have kept him alive a month. She

testifies that he referred matters of business to his wife and said, "You know I can't think," as an evidence of his weakness. The court is pretty clear that is evidence of the fact that even when under the influence of liquor he was sensible enough to know that he had better not act for himself while in that condition.

The testimony of Henry A. Hubbard, the husband of the last witness, is substantially the same. They were neighbors; they both seemed to have been offended with Ralston, and speak of him with far too much bitterness to leave the mind under the impression that they regarded him as an imbecile.

The last witness testifies that when not drunk there were a few times during the year when Ralston was fit for business, and in another connection says: "I would not judge Mr. Ralston to be a capable business man or fit to do business as men ordinarily do it." No doubt the dissolute conduct of Ralston was intensely disgusting to these good citizens of the "land of steady habits." No doubt, in their opinion, he was not only "not a capable business
551 man" and "not worth his salt," all of which may be true, and yet he may have been capable of legally conveying his estate in an interval of sobriety.

The testimony of L. R. Hurlbut, the physician who was, of course, called in when Ralston was at his worst, is unfavorable to the validity of the deeds. It requires no technical knowledge, but simply a common degree of intelligence and experience, to know that a physician who sees his patient only when in the furious delirium of drink or the terrible prostration and depression which follow a debauch is no reliable witness as to his mental condition at other times.

John O. Brintnall's depositions show that he was a neighbor of the Ralstons in Stamford; saw him frequently drunk. His mind was thick and clouded. When his wife would go off Ralston would go to Shippan Point and get drunk. On one occasion witness went to the Windermere, in New York, and Ralston came to the door in his night-gown and said to witness that he and his wife had been on a drunk and they had a little turn (the reference to his wife having been erased by the commissioner, counsel for defendant insists that this was improper, and shows that the commissioners
552 were not without bias). The witness states that he saw Ralston almost every day passing down to his yard. He also states that when Mrs. Ralston went to see the neighbors Ralston would not go, and that when visitors went to the house to see them Ralston would be out of sight. The witness also testifies that Ralston did not have a prudent and proper conception of the value of property. The opportunities of this witness to know Ralston's business capacity were extremely limited and imperfect. The value of his opinion is to be estimated in the light of the facts upon which it is based. He specifies but three instances in which he had a conversation with Ralston, and on each occasion the latter was drunk. "I think," he says, "I know his mind had been impaired by the use of liquor." None of these witnesses knew Ralston before he went to Stamford. It is deemed admissable for a witness upon such facts as

these and with an opportunity to know the actual truth as meagre as this to give his opinion, but the opinion itself is of little moment. Margaret O'Brien, known as "Sister Margaret," one of those holy and unselfish women who devote their lives to the alleviation of human misery and the betterment of human nature, is the
553 next witness for complainant. The good Sister knew Ralston at the St. Elizabeth's hospital, in New York. Both Ralston and his wife were there sick. She saw him in Montclair two weeks before he died, in 1883. She saw him frequently throughout this period. She testified she would call Mr. Ralston an habitual drunkard. He spent his money very freely. He was not prudent or careful, but was very extravagant. I can't testify whether he had a proper conception of the value of property. I don't think he was very easily influenced.

"In 1880, 1881, and 1882 his mind appeared to be all right; it had not been impaired, so far as I know. He was very seldom sober during that time. In the hospital he was allowed three to five milk punches a day and he would try to steal out for more. The effect was to make him stupid and helpless after going out." Further on Sister Margaret testifies: "I do not think he was capable of business in 1880, 1881, and 1882 because of his drunkenness," and after a moment's reflection the excellent Sister says: "I do not know whether he was capable or not." The court attaches very great importance to the evidence furnished in the deposition of this witness. Her truthfulness is apparent in every utterance. She saw Ralston frequently. She watched him closely. His mind was "all right" in 1880, 1881, and 1882 except when he was drunk.
554 The- he was "incapable," she thinks, but does not know. She has none of the characteristics of the swift witness. Her *amour propre* had not been offended by the purse-proud insolence of Ralston, as were the Hurlbuts. Accustomed to view the suffering and the afflicted, her judgment is not startled from its propriety by the spectacle of drunkenness or prostration. Unlike the physician, her observation is not confined to that moment of frenzy when the solicitude of friends has prompted the cry, "Run for the doctor." She is the patient, watchful, even-tempered, and unruffled nurse, and, moreover, her veracity is unquestioned. Besides, her testimony is entirely *consisted* with the observation of practical men in cases like that of Ralston. It is lamentably true that, in spite of the efforts of the good and the pious, *that* this observation may be had in almost every community, and the court repeats that it does not require the science taught in the schools of medicine to discover that the simple outline of this unfortunate character drawn by the Sister is accurate and true in the light — practical intelligence. It is true that two expert medical men, Dr. W. Gill Wiley and Dr. William R. Pryor, testified that in their opinion Ralston's mind
555 in 1880, 1881, and 1882 was not competent to the discharge of business functions.

Dr. Wiley testifies that at times during this period his mind might have been clear. Dr. Riley always saw Ralston, in his own language, when he "needed the doctor." He testifies that Ralston

used intoxicating liquors almost habitually, at times excessively, and a greater part of the time I should say, testifies the doctor, that he did not have a proper conception of the value of property. While stating that his mind was impaired by the use of liquor, Dr. Wiley qualifies his statement, "but I saw him when he needed a doctor." An important statement of this witness discloses the character of Ralston's fits of drunkenness. "When he started to drink," said the witness, "he drank until he broke down, and this weakened him both physically and mentally." The testimony of this witness is to the effect that Ralston was incapable of managing a general business continuously, and this is all.

Dr. Pryor saw Ralston when he was suffering with acute alcoholism. This the court takes to be delirium tremens. He saw him afterwards when suffering with acute pleurisy from alcoholism—the
556 first time December 19th, 1882; the second, December 22d, 1882, twenty months after the last deed was executed, and shortly before his death. He did not know Ralston in 1880 and 1881. This testimony is of no value.

The testimony of Howard E. Jones, who knew Ralston in 1880 and 1881 in New York, does not materially differ from the evidence of the other witnesses for complainant who are not experts, except that he states that Ralston was sober half the time; the rest he was under the influence of liquor. The depositions of Ida Ralston, it is true, present a terrible account of her husband's drunkenness. Her evidence will be more fully considered in another connection. It is perhaps sufficient at this time to say that she speaks of several intervals of sobriety during their married life. This began on the 3rd of January, 1880. For three months Ralston was sober. After signing the deed of 1881 he kept the pledge not quite two weeks. He must have been sober at the time he signed the deeds or her testimony would have indicated otherwise. His signatures are clear, steady, indicate none of that tremulous quiver which characterizes the handwriting of the inebriate who is suffering from the effects of
557 a debauch. The complainant herself, long after the execution of the deeds in controversy, received from Ralston a deed to two valuable stores in Macon. She thinks him competent to execute the deeds because they had a valid consideration. After the execution of these deeds to her, as late as November 27th, 1882, she takes from Ralston a written promise to consent to a bill of separation if he does not abstain from drink. This paper is executed with great formality. Its interlineations are marked with the initials of Ralston, and it is signed by him with an easy and graceful sweep of the pen which indicates no diminution of nervous control.

The court has confined its attention to the evidence for the complainant. This is scarcely fair to the defendant, and yet, in the opinion of the court, it is unmistakably clear that no evidence is afforded sufficiently satisfactory of such great mental weakness as will vitiate these deeds. It is not to be denied that Ralston was generally a drunkard. It is perhaps equally clear that he could not have successfully managed any business which required his continuous or even daily attention, but it is not clear that he may not, when

sober, intelligently have conceived and lawfully carried out a scheme for the distribution of his property.

558 Many men of large and successful business capacity are heavy drinkers. Many intellectual men of great power indulge in periodical sprees and pour the various dilutions of alcohol into their stomachs until the brain, if distilled, would produce alcohol, and the stomach, revolting at the caustic poison which has seared its membranes and paralyzed its healthy functions, not only rejects all nourishment but violently ejects the stimulant which the poor sufferer craves but cannot retain.

Then, weakened by the want of food and suddenly deprived of the alcohol, which has become at once its substitute and the anodyne for his humiliation and shame, he is the most pitiable and wretched of the unfortunate, and it will seem that not "poppy or mandragora, or all the drowsy syrups of the world," can lull the sleepless nerves or give health to the tremulous and miserable body; and yet a few days' abstinence, with a simple and well-known treatment, will completely restore the sufferer to health. Ralston was a periodical drinker, and there is nothing in all the evidence which in his periods of sobriety indicates imbecility or great mental weakness. So far as the evidence of the complainant goes, his capacity

559 to convey his property in his sober and lucid moments was as unquestioned as that of hundreds of men whose capacity in this respect would be conceded by entire communities.

The evidence offered by the defendant that Ralston was rational, sober, and intelligent on the particular occassions when the deeds were signed is not even controverted. Mr. Proudfit, a witness to the deed of August 28th, 1880, testifies that he was perfectly sober and perfectly rational. W. H. Ross saw Ralston about that time. He was rational and sober. Both of these witnesses are citizens of Macon, who knew Ralston well. J. E. Jones, the president of the Southwestern Railroad Company, testifies that when he was sober he had capacity and was a smart fellow. Other witnesses corroborated this testimony. Besides this the correspondence put in evidence not only shows that Ralston was exercising a reasonably diligent and watchful degree of attention to his business, but on several occassions he speaks of his excellent health. This evidence is more reliable than the testimony of witnesses. Why should Ralston, on July 20th, 1880, write that he was enjoying good health if he was the miserable wreck the complainant would have the court to believe?

560 Why, on the day before the last deed was executed—*i. e.*, on the 18th of April, 1881—should he write, "My health is splendid?" This evidence, free from after-thought, without discoverable impropriety of motive, contemporaneous with the main incident, is of very great value. In generally bad health Ralston, like many other invalids, esteemed his physical condition of prime interest to his correspondent, and the letter written at the time must be regarded as the truth.

In the presence of all this evidence to show Ralston in the possession of a sufficient degree of intelligence to convey his property, and in the absence of definite and satisfactory evidence to the contrary,

the court is clearly of the opinion that there can be no doubt that, so far as this allegation is concerned, the deeds are valid and the prayers of the bill must be denied.

It is urged with great ability and force of statement and reasoning that the relation existing between Ralston and the defendant was of a confidential character; that the actual relation of guardian and ward, which was nominally at an end, in fact had not terminated;
561 that Turpin's influence over Ralston was unbounded and controlling, equivalent to that of a father over a son; that the deeds were not voluntary, but were suggested, and were obtained by undue and improper influence by Turpin, and that, under these circumstances, a court of equity will not permit the deeds to stand.

An abundant wealth of legal learning relating to the question involved has been gathered by the research and diligence of the solicitors, and is presented for the assistance of the court. From the authorities we have ample warrant for the opinion that the powers of a court of equity are not only ample to set aside a conveyance obtained by undue influence, but that, based upon the broad principles of an elevated morality, it is a conspicuous and prominent feature of equity jurisdiction; and where a fiduciary relation exists a court of equity will hold that a conveyance to the party who exercises the dominant power of the person dominated is invalid. 1 Pomeroy Equity, 492, '93. The statement of the principle is clear and ample, and is adopted by the court as expressing the rule in this case:

"The equitable rules concerning dealings between guardian and Ward are very stringent. The relation is so intimate, the
562 dependence so complete, the influence so great, that any transaction between the two parties, or by the guardian alone, through which the guardian obtains a benefit, entered into while the relation exists, are in the highest degree suspicious; the presumption against them is so strong that it is hardly possible for them to be sustained. Indeed, many authorities lay down the positive rule that the parties are wholly incapacitated from contracting, and that any such transaction between them is necessarily voidable. This statement is, perhaps, too broad. A will by the ward in his guardian's favor is not viewed so strictly; the presumption against it may be overcome and the will sustained. The general doctrine of equity applies to the parties after the legal condition of guardianship has ended, and as long as the dependence on one side and influence on the other presumptively or in fact continue. This influence is presumed to last while the guardian's functions are to any extent still performed, while the property is still at all under his control, and until the accounts have been finally settled. It follows, therefore, that any conveyance, purchase, sale, contract, and especially gift, by which the guardian derives a benefit, made after the termination
563 of the legal relation, but while the influence lasts, is presumed to be invalid and voidable. The burden rests heavily upon the guardian to prove all the circumstances of knowledge, free consent, good faith, absence of influence, which alone can overcome

the presumption. If the legal relation has ended and all these circumstances of good faith, full knowledge, and free consent are clearly shown, a settlement, conveyance, contract, or even gift from the former ward to his recent guardian will be as valid and as effective as the same transaction between any other competent person."

It is contended further by the complainant's solicitors that the relation of principal and agent is also within the range of the presumption stated, and they cite Code of Ga., 3, 77; Kerr on Fraud and Mistake, 172; 2 Pomeroy Equity, sec. 951; 1st Story Equity, 315; Hunter *vs.* Atkyn, 8th Eng. Chancery Rep., 303; 5 Blackford, Ind., 599; 15th *vs.* In., p. 34, and notes. The examination of these authorities will show that they relate to bargains between the agent and the principal. Here the act complained of is a gift. Now, it has been repeatedly held, and it is now declared settled by the text-writers, that a gift by a man to a person who has been for
564 many years acting as his confidential agent and adviser is valid, unless the party who seeks to set it aside can show that some advantage was taken by the agent of the relation in which he stood to the donor. If it appears that the conduct of the agent was fair, honest, and *bona fide*, it is immaterial that the deed of gift may have been drawn up by his solicitor without the intervention of a disinterested third party. Kerr on Fraud and Mistake, p. 176, and authorities cited.

In the case either of guardian or ward, where the relationship has completely ended, or principal and agent, or, indeed, in any other confidential relation, if it can be shown by satisfactory extrinsic evidence that confidence has been abused and influence unduly exerted to obtain a gift, the rules of equity and the remedies which it bestows are exactly the same as where the presumption is created. In the case now under consideration the guardianship had been terminated eleven years. It was not a bargain between the agent and the principal, but a gift. No presumption exists against this gift. Does the extrinsic evidence satisfactorily prove the allegations of confidence abused and dominant influence misused? To clearly and properly answer this question we must consider the
565 parties and their mutual relations.

Ralston was a young man without aim or ambition in life, except that he be permitted to live and have the means to live as he desired. A more aimless existence could not be conceived. He was a man of fortune; he had no immediate relatives except five aunts and their children; father, mother, and brothers were all dead. He early considered what should be done with his property when he died. In 1873, many years before he met the complainant, he had said to his mother: "I propose to give a portion of my property to the children of my friend Turpin." In 1874 he made his will. That he was at that time rational, intelligent, and sober no one has questioned, and the attorney who drew the will, a distinguished gentleman of elevated character, has testified that he was perfectly sober and gave all of the directions for the will with a clearness and careful and explicit attention to the details. In this will he gave to his

aunt, Mrs. Smith, a portion of his real estate and a large portion to Turpin and his children. In his will he makes provision for the stone to mark his grave. In this, with singular omission of reference to any of his own blood, although they, too, are to receive
566 his bounty, he writes: "I request that my friend, George B. Turpin, and his children after him will see to it that my monument and grave, always during their lives, shall be suitably kept and cared for."

It must have been a close and warm friendship and mutual esteem which would so early dictate so large a bequest and attach to it so delicate condition. To care for and preserve the resting place of the dead, from the earliest antiquity, has been the province of the friend "who sticketh closer than a brother."

At the time the will of 1874 was made Ralston had never met the complainant. He made no secret of his intention to make Turpin's children the legatees of his will. Many witnesses have been examined who gave evidence that this intention was uniform and generally known.

When Ralston met Ida Blanchard, or Sally Harden, as he calls her in the will presently to be mentioned, does not appear; but he married her on the 3rd day of January, 1880, after living with her as his mistress for several years.

On the 15th of December, 1879, he made another will. His mistress had become sufficiently dear to him to drive from his memory his duty to his aunts and cousins, whom he had
567 provided for in the will of 1874, but her influence, although amounting to an infatuation which had driven him from his home — made him the finger-point of scorn for the manhood and of contempt and aversion for the womanhood of the city where he was born and reared, *have* not proven strong enough to efface his determination to provide for the children of his friend, who was the friend of his father and of his mother, both now dead. The directions for this will were given with equal explicitness as in the first will. He was well and sober. Turpin was in Georgia; the will was executed in New York, and he bequeaths the identical property to Turpin, as trustee for his children, which he conveyed by the subsequent deeds when Turpin informed him the will had been revoked by his marriage with the complainant. This will with this provision for the children of Turpin was signed but eighteen days before the marriage. Ralston had kept the will by him for several months. At this time Ralston must have been completely under the spell of the complainant's influence. It is unreasonable to say that Turpin influenced this will. The will of 1874 was still
568 in existence, and that will gave to Turpin's children a larger share than the will of 1879 and to Turpin himself a share of the bequest. What motive could Turpin have to promote a will which would diminish his children's expectancy and destroy his own? It is impossible that this will should be regarded otherwise than as the evidence of a settled purpose on Ralston's part to provide for Turpin's children and to also provide for the woman who

was soon to bear his name. That the marriage revoked this will is clear, but it does not appear that Ralston knew this until Turpin informed him of it the ensuing August, when at once he makes a deed which carries out the provisions of the will. Two days thereafter he makes another, and eight months after this and after eight months' absence from Turpin he makes another and a third deed to effect the same designs. What more conclusive evidence of a fixed and settled purpose can be presented? It also appears that he effects his testamentary purpose for the benefit of Ida Ralston, as indicated by the will of 1879, by a deed in her behalf, and afterwards by a will in which he makes no mention of Turpin's children, having provided for them.

It is true that Turpin's influence with Ralston seems to
569 have been great, and so far as it appears from the evidence this was natural and to be expected. The complainant's solicitors admit in argument that Turpin's accounts were scrupulously correct. When he, as guardian, turned over to Ralston his estate in addition he handed to him $13,000 in money and notes, which in a short time had been the fruit of Turpin's judicious management. Ralston had been taught by his parents to confide in Turpin and to trust him. The fact that the deeds to Turpin's children were drawn by a lawyer at Turpin's instance does not seem to have the importance given it by complainant.

"If the conduct of the agents appears fair, honest, and *bona fide* it is immaterial that the deed of gift may have been drawn up by his solicitors without the intervention of a disinterested third party." Kerr on Fraud and Mistake, page 176. See note 4 for authorities cited. It is said that Turpin solicited Ralston to make the deed. It seems that this solicitation simply reminded him that his marriage had revoked a will made but eighteen days before that event, which will provided for the marriage and also for Turpin's children, and it seems to make inquiry whether he had changed the
570 consistent purpose of his life to that time. The suggestion was frankly made to Ralston and his wife. It is true that Turpin had prepared the deed and had it with him. Ralston and his wife promptly consented to sign the deed. It is idle to claim that Turpin had any dominating influence over the complainant. The solicitude which counsel attribute to a fear that her reputation would be impaired by Turpin's disclosures is hardly credible in the case of a woman of her antecedent experiences, and she would hardly value that temporary good fame in the small town of Stamford as equivalent to a block of city property in the heart of Macon. Besides, there is not a syllable of evidence that Turpin threatened — reveal *to* her past life, but from her own lips we learn he treated her with respect and kindness. A court of equity cannot indulge conjectures of this vague and intangible sort. It is equally unjustifiable to urge that Ralston did not know the value of the property, and whether it was of greater or less value than the Third-street property it is clear from all the evidence that the property conveyed by the deeds had been intended for Turpin's children at the latest since 1874.

The transaction is said by the complainant to be unnatural,
571 first, because Ralston in the deeds omitted to recall the fact that he had five living aunts and an abundant supply of cousins. It is even more unnatural, they say, because he did not wait to ascertain if there would be children by his wife, the complainant. It seems, however, that his aunts had theretofore made little impression upon his testamentary purposes, except Mrs. Smith, whose place in the will of '74 was supplied by Ida Blanchard, otherwise Sallie Hardin, in the will of '79. With regard to the other suggestion there seems to have been little novelty or change in the relations between the complainant and Ralston consequent upon the form of marriage had in January, 1880. It is very evident that this form, for several years past, had been regarded by both parties as superfluous. Ralston knew that no children would follow this unholy union; nor is it unnatural that he should decline to bestow all of his property upon a wife whose character had degraded him and destroyed every hope of reformation and every anticipation that he could regain that position in life to which, by birth and fortune, he was entitled. He provided amply for her comfort; but, in the opinion of the court, it would have been far more unnatural and
572 shocking to the moral sense had he forgotten the friend of his childhood, his guardian, and his trusted friend and the children of that friend, to whose affectionate memory he had committed his tomb and for whom he had promised his mother to provide, in order to bestow his magnificent patrimony upon a woman whom he had made his wife, but whom he had found a harlot in a brothel.

That Turpin had influence with Ralston is not to be disputed, but there is no evidence that the influence has been abused. That Ralston trusted him is unquestionable, but there is in the record before us no betrayal of that trust. If there is evidence of undue influence upon Ralston that influence was exerted by the complainant. Her influence with him was imperious. After four years of illicit life with him she marries him. Had he desired the marriage it would have been solemnized at an earlier day. She knew that to marry him was to ruin him. She knew from that moment he was a social leper. She knew that no decent man would take her husband to his home; that no pure woman would touch the hand that had been joined in wedlock with hers; and yet she married him,
573 and no protest of friend or family could swerve her from her purpose. Her motive must have been sordid in the extreme. Had she been a pure woman, who had surrendered her person to her lover and then sought wedlock as the means of redress for her wrong, this court would applaud and approve her motive; but when she met Ralston it was as a public prostitute, but she married him, and now she sets up in avoidance of the bounty to the children of his friend habits of intemperance which were encouraged and fostered in the orgies of the bawdy houses where he found her.

Other arguments, some of them of great force (as, for instance, the fact that eight months after the execution of the first two deeds,

which the complainant attacks, she formally joined in the execution of the third deed, and thus is estopped), have been advanced for the defendants. The court, however, prefers to place its decision on the broad grounds—

First. Not only does the complainant fail to show such weakness of mind on the part of Ralston as will invalidate the deeds, but the evidence demonstrates that at the time they were made he was abundantly capable to dispose of his property as he might think proper.

574 Second. So far from indicating an abuse of influence or a betrayal of trust the evidence amply shows that this disposition of the particular property had been the long settled and cherished purpose of Ralston's life, and it must stand as he intended.

The court directs that the prayers of the bill be refused and that the complainant pay all the costs arising in this court.

EMORY SPEER,
U. S. Judge.

Endorsement: In U. S. circuit court, western division, southern dist. of Georgia. Ida Ralston *vs.* Geo. B. Turpin, trustee, *et al.* Opinion of the court. Filed Oct. 10th, 1885. L. M. Erwin, dep'y clerk.

575 SOUTHERN DISTRICT OF GEORGIA, *Western Division:*

I, H. H. King, clerk of the circuit court of the United States for the southern district of Georgia, by Lenoir M. Erwin, deputy clerk of said court, at Macon, do hereby certify that the writing annexed to this certificate is a true, correct, and complete copy of the opinion rendered by the judge in said court on the cause, in equity, of Ida Ralston, complainant, against George B. Turpin *et al.*, defendants, lately pending in said circuit and appealed by the complainant to the Supreme Court of the United States, as the same remains of file and of record in my office. I further certify that the said opinion was not filed in this office until the 10th day of October, 1885, which was some weeks after the adjournment of the term of the court at which said cause was tried and decree therein rendered, and that the transcript of the record in said cause was made up, certified, and forwarded to the clerk of the Supreme Court of the United States, at Washington, D. C., before said opinion was filed in this office.

In witness whereof I have hereunto set my hand and affixed the seal of the said circuit court, at Macon, Georgia, this fourteenth day of October, A. D. eighteen hundred and eighty-five.

[Seal U. S. Circuit Court, So. Dist. of Georgia, West'n Div.]

H. H. KING, *Clerk,*
By L. M. ERWIN,
Deputy Clerk.

576 [Endorsed:] Supreme Court U. S. 1885, Oct. term. No. 1058. Ida Ralston, appellant, *vs.* George B. Turpin, trustee, *et al.* Certified copy of opinion of U. S. circuit court.

[Stamped:] Office Supreme Court U. S. Filed Oct. 19, 1885. James H. McKenney, clerk.

Endorsed on cover: S. Georgia C. C. U. S. No. 368. Ida Ralston, appellant, *vs.* George B. Turpin, as trustee for his children, William C. Turpin, Frank M. Turpin, George R. Turpin, and Walter H. Turpin, *et al.* Filed October 12, 1885.

JOHN CURTIS.

Improvement in Dash Boards for Carriages.

No. 122,996. Patented Jan. 23, 1872.

Fig. 4.

Fig. 1.

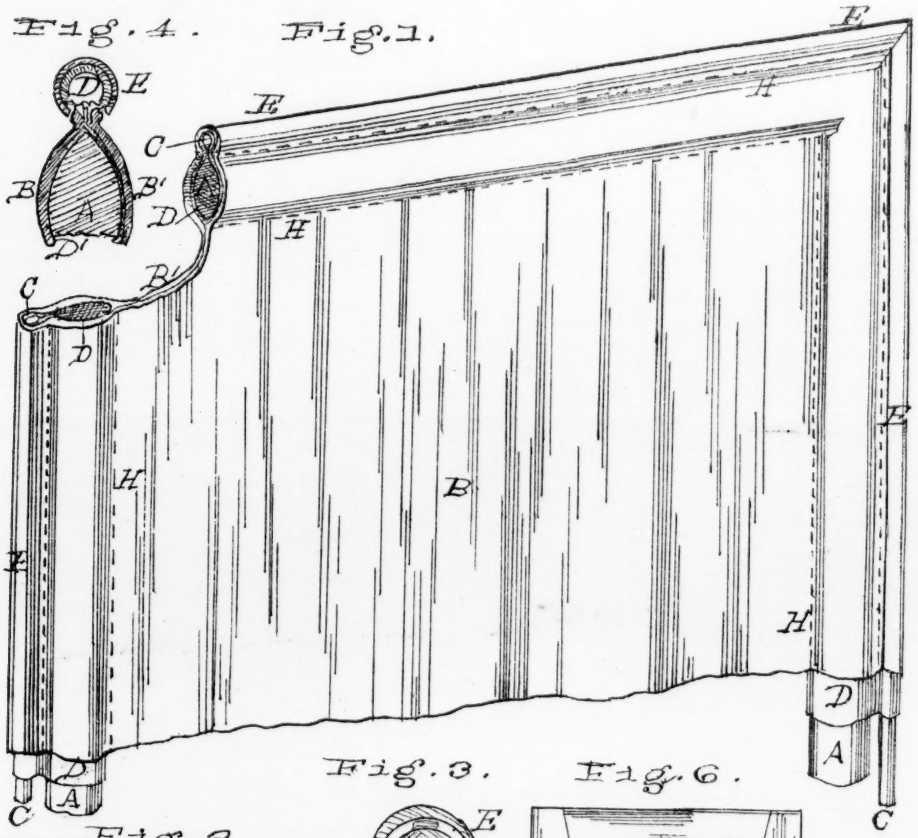


Fig. 3.

Fig. 6.

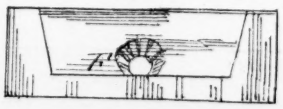


Fig. 2.

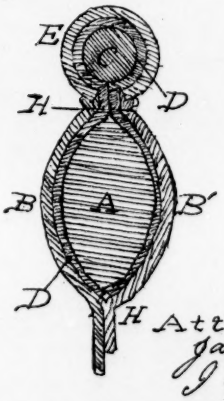
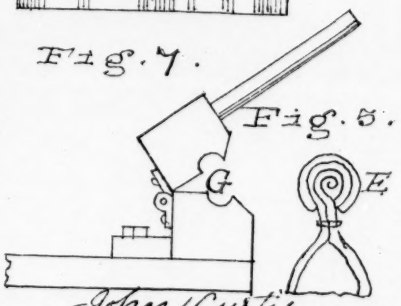


Fig. 7.



No. 328
Peters
v.
Acme
Mfg. Co
p. 331

Attest.
Jas. H. Layman.
J. W. Layman.

John Curtis
INVENTOR.
By Knight Bros
attys

JOHN CURTIS.

Improvement in Dash Boards for Carriages.

No. 122,996. Patented Jan. 23, 1872.

Fig. 4.

Fig. 1.

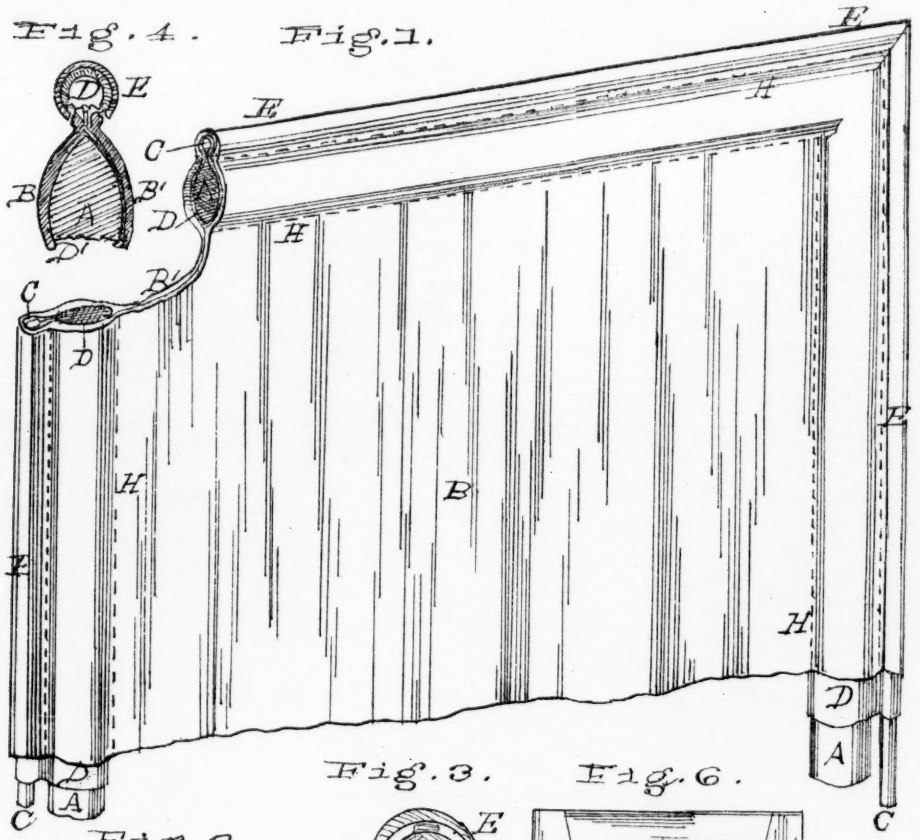


Fig. 3.

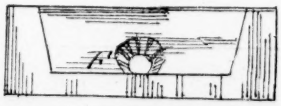


Fig. 6.

No. 328
Peters
v.
Acme
Mfg. Co
p. 331

Fig. 2.

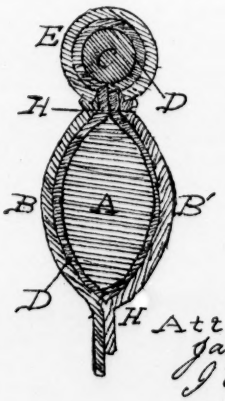
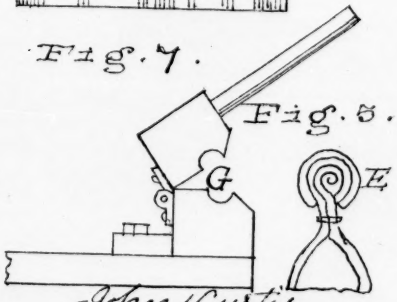


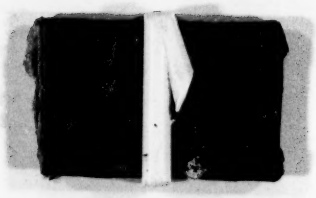
Fig. 7.

Fig. 5.



Attest.
Jas. H. Layman.
J. W. Layman.

John Curtis
INVENTOR
By Knights Bros
Attys



G. M. PETERS.

TOOLS FOR ATTACHING SHEET-METAL MOLDINGS.

No. 178,463. Patented June 6, 1876.

No. 328
Peters
& Actier Mfg Co
p. 345

FIG. 1.

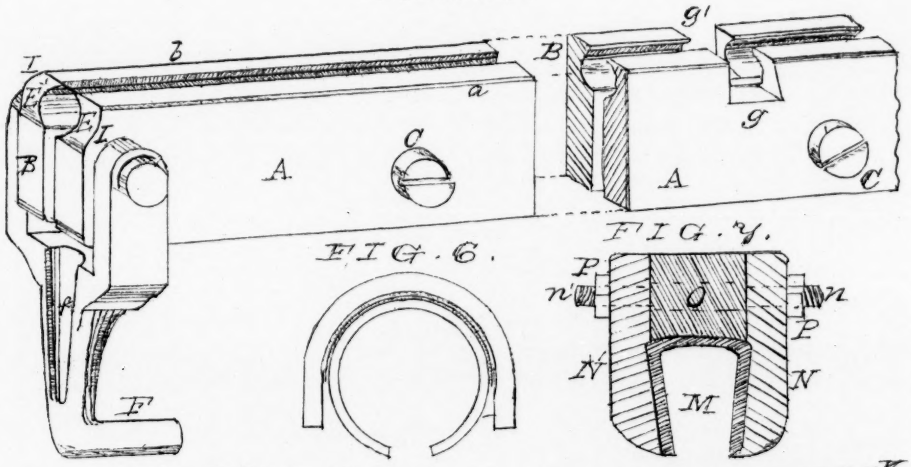


FIG. 6.

FIG. 7.

FIG. 2.

FIG. 3

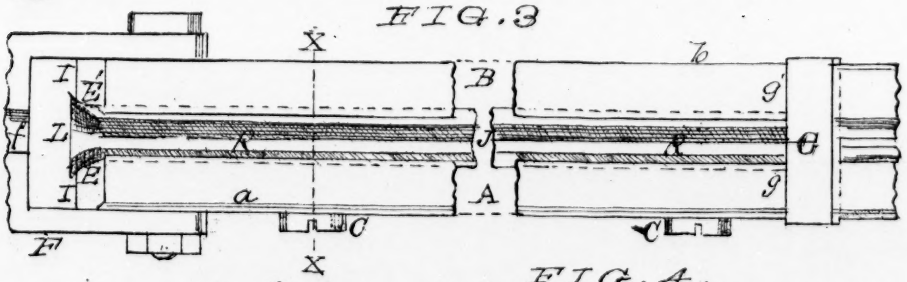


FIG. 4.

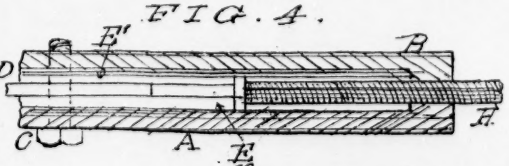
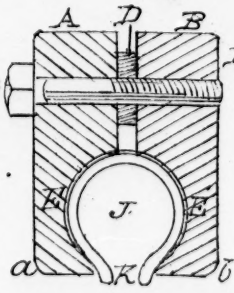


FIG. 5.



George M. Peters per
Wm Hubbell Fisher
Atty

Attest.
Edwin Bruce
Chas. H. Hammel

U.S.C.C.
S.D.O
Geo. W. Peters
vs
Acme Mfg Co } Eq 3206

No 328
Peters
Acme Mfg Co } p 346

Defendants Exhibit "C"

It is hereby stipulated that this drawing may be used as a substitute for original Exh "C" which was lost

Stern & Peck
Solrs for Defts

Wm. Hubbell Fisher
Solr. for Complt.

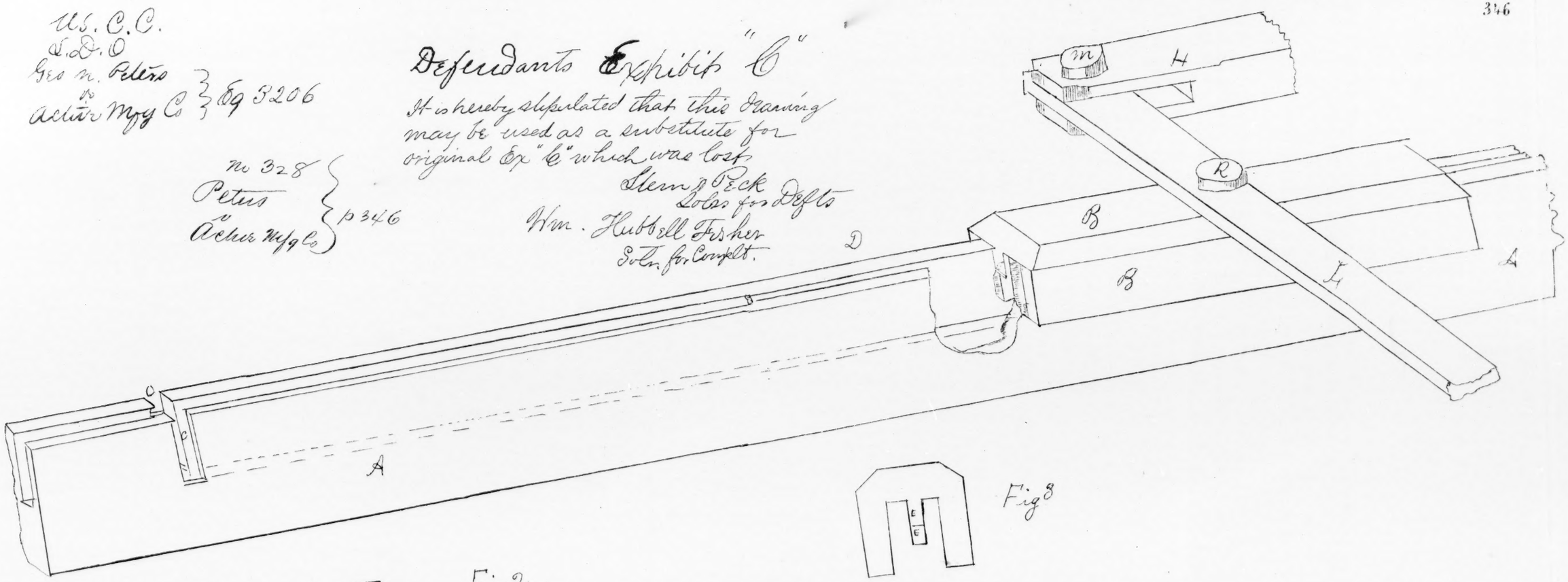
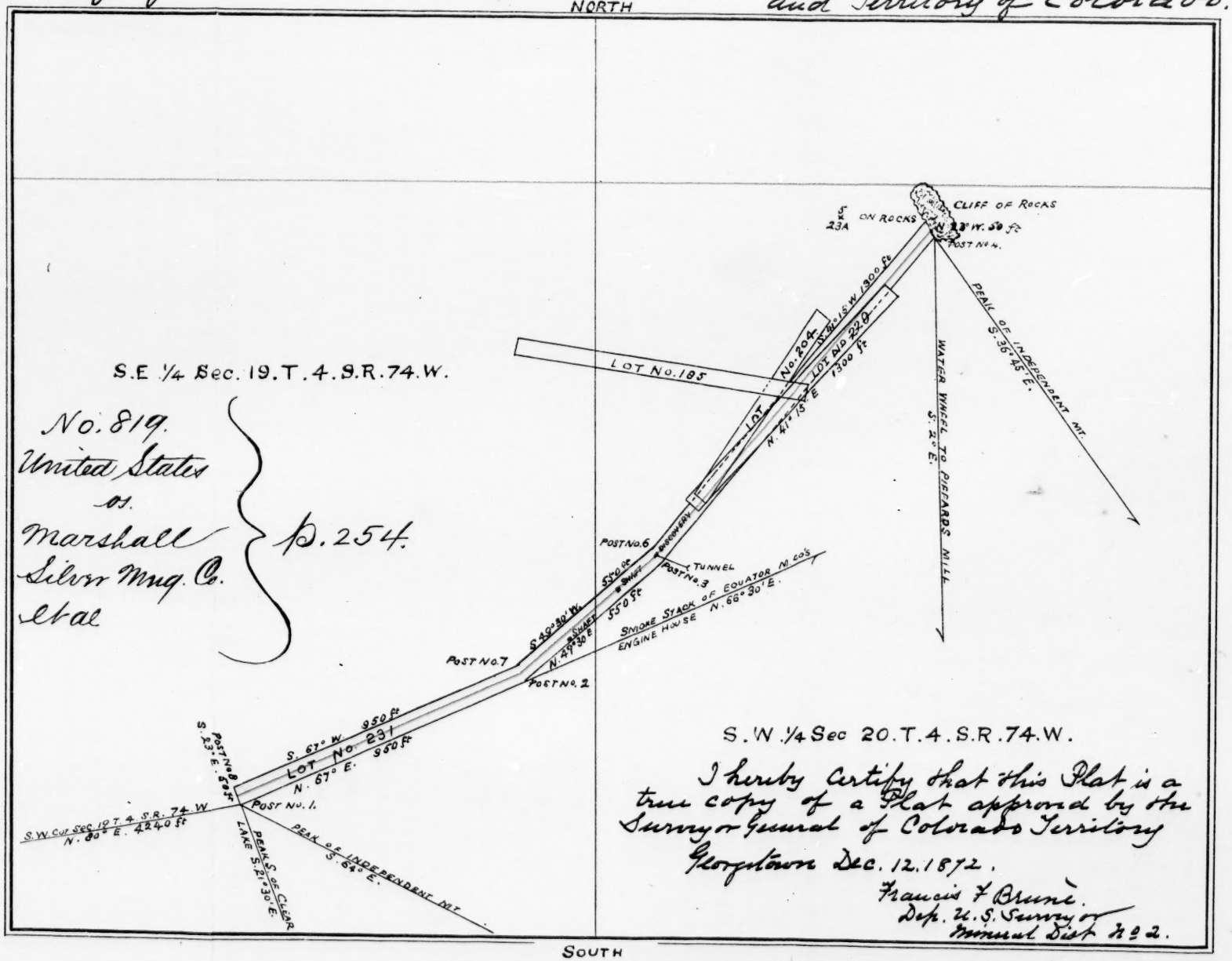


Fig 2

Fig 3

	2	marked		branded 96 + ON	Orial
	5	"		" X "	"
566	1	"		" BR	"
	1	"		" SO	"
	4	"		" T	"
	3	"		" "	"
	1	"		" "	"
	2	marked		branded T	Orial
	1	"		" "	"
	2	"		" J & ON	"
	1	"		" 55	"
	1	"		No brand	"
	1	"		Branded B	"
	2	"		" SON	"
	2	"		" CM	"
	11	"		" 3C	"
	2	"	"	" 9°	"
	1	"		" P.C + ON	"
	2	"		" S + ON	"
	1	"		" JLB	"
	3	"		" C m	"
	2	"		" ONTS	"
	1	"		" H × ON	"
	1	"		" VF	"
564	4	"		" H C + ON	"
	1	"		" 68	"
	1	"		" 77	"
	1	"		" U	"
	1	"		" S	"
	7	"		" 3C	"
	1	"	"	" "	"
	2	"		" ON + 2	"
	1	"		" H × ON	"
	1	"		" ON + 2	"
	1	"		" CC	"
	1	"		" ON + 2	"
	20	"		" J W	"
	2	"		" N W	"
	7	"		" J W	"
	1	"		" R	"
	2	"		" N Brand	"
	8	"	marked other	" 7C	"
	1	"		" 8	"
	1	marked		branded W L	Orial
	4	"		" S O	"
568	2	"		" X Ry	"
	1	"		" — —	"
	2	"		" 7	"
	2	"		" —	"
	2	"		" P	"
	"	"	"	" "	"

Plat of Cayuga Lode situated in Griffith Mining District, County of Clear Creek and Territory of Colorado.



I hereby certify that this Plat is a true copy of a Plat approved by the Surveyor General of Colorado Territory

Georgetown Dec. 12. 1872.

Francis T Brune.
Dep. U. S. Surveyor
Mineral Dist No 2.

Territory of Colorado }
County of Clear Creek } ss.

Francis F. Brune of the above named County and Territory being first duly sworn according to law on oath deposes and says that he is a duly qualified Deputy United States Surveyor within and for the County and Territory aforesaid. Affiant further says that he surveyed the claim of the Marshall Silver Mining Company of Georgetown upon Tunnel Lodes Numbers Five (5) and Six (6) in Griffith Mining District, Clear Creek County, Colorado Territory. and that this Plat marked Exhibit A faithfully and correctly represents the relative position of said Marshall Silver Mining Company of Georgetown, Claim upon Tunnel Lodes Numbers Five (5) and Six (6) to the claim of Erskine McClellan, Walter N. Webster and Joseph Rist upon the Cayuga Lode in Griffith Mining District County and Territory aforesaid. Affiant further says that the Marshall Tunnel has been driven into the Mountain for the development of Tunnel Lodes Numbers Five (5) and Six (6) and other Lodes and that in executing the work of said Marshall Tunnel to the intersection of said Tunnel Lodes Numbers Five (5) and Six (6) an amount of not less than Twenty Thousand dollars has been expended.

Francis F. Brune
Deputy U. S. Surveyor.
Mineral Dist No 2.

Subscribed and sworn to before me this 13th day of February A.D. 1873.

Charles P. Ford
Notary Public

Notary Seal

No. 819.
The United States.
vs.
Marshall Silver Mining Co. et al.
} p. 280

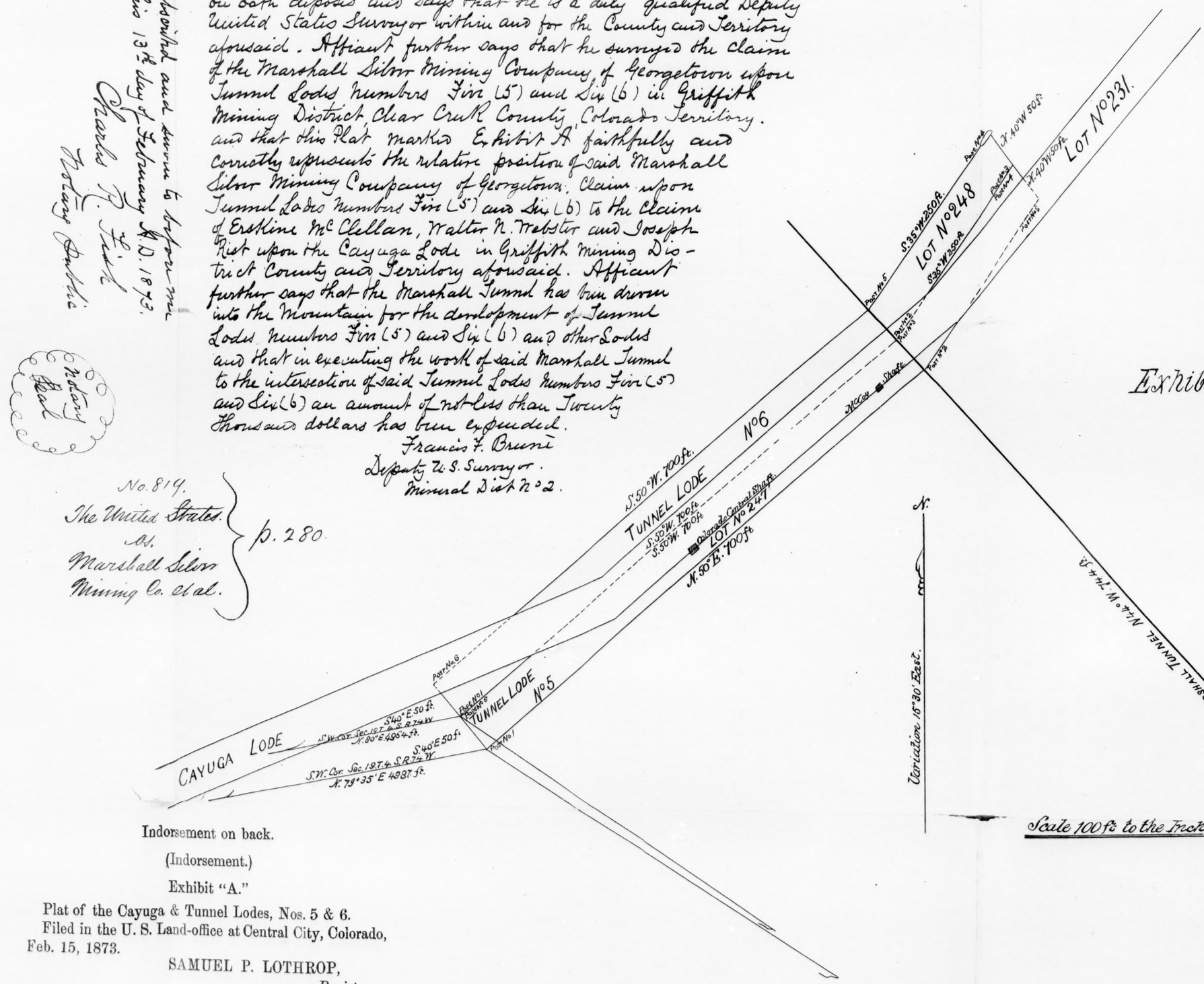


Exhibit A

Indorsement on back.

(Indorsement.)

Exhibit "A."

Plat of the Cayuga & Tunnel Lodes, Nos. 5 & 6.
Filed in the U. S. Land-office at Central City, Colorado,
Feb. 15, 1873.

SAMUEL P. LOTHROP,
Register.

Plat

of the claim of

Erskine Mc. Clellan et al.

upon the

Cayuga Lode.

Griffith Mining District, Clear Creek County.

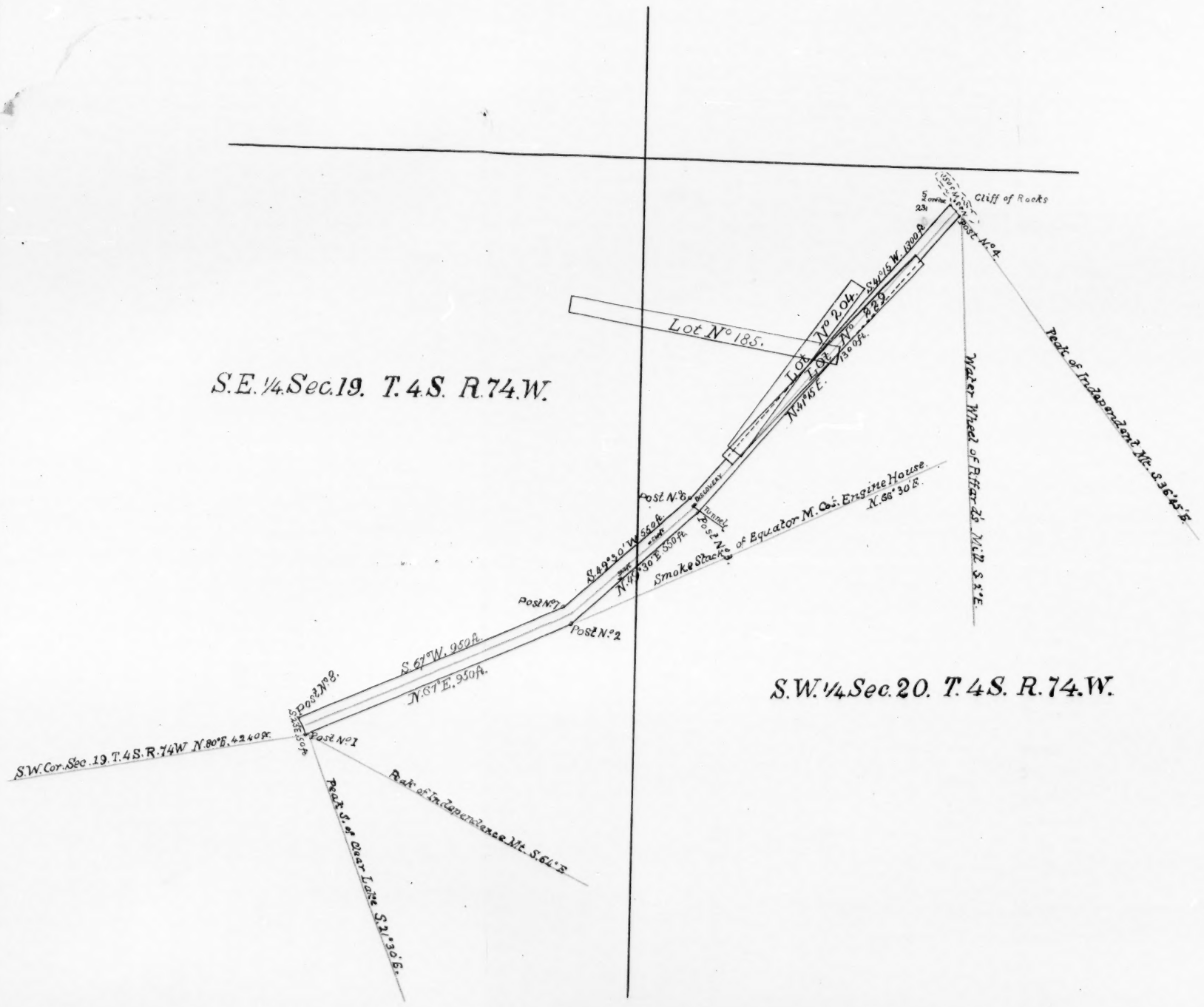
Colorado

Containing 2.35 Acres.

Scale 400 ft to an inch.

Var 15°30' E.

No. 819.
The United States
vs.
Marshall Silver
Mining Co. et al.
} p. 302.



(10870-1,000)

(8)

(4-592.)

Plat.

of the claim of

The Marshall Silver Mining Company of Georgetown.

upon the

Tunnel Lode No. 5.

Griffith Mining District, Clear Creek County.

Colorado.

Containing 1.09. acres.

Scale 400 ft to an inch.

Var. 15° 30' E.

No. 819.

The United States.

vs.

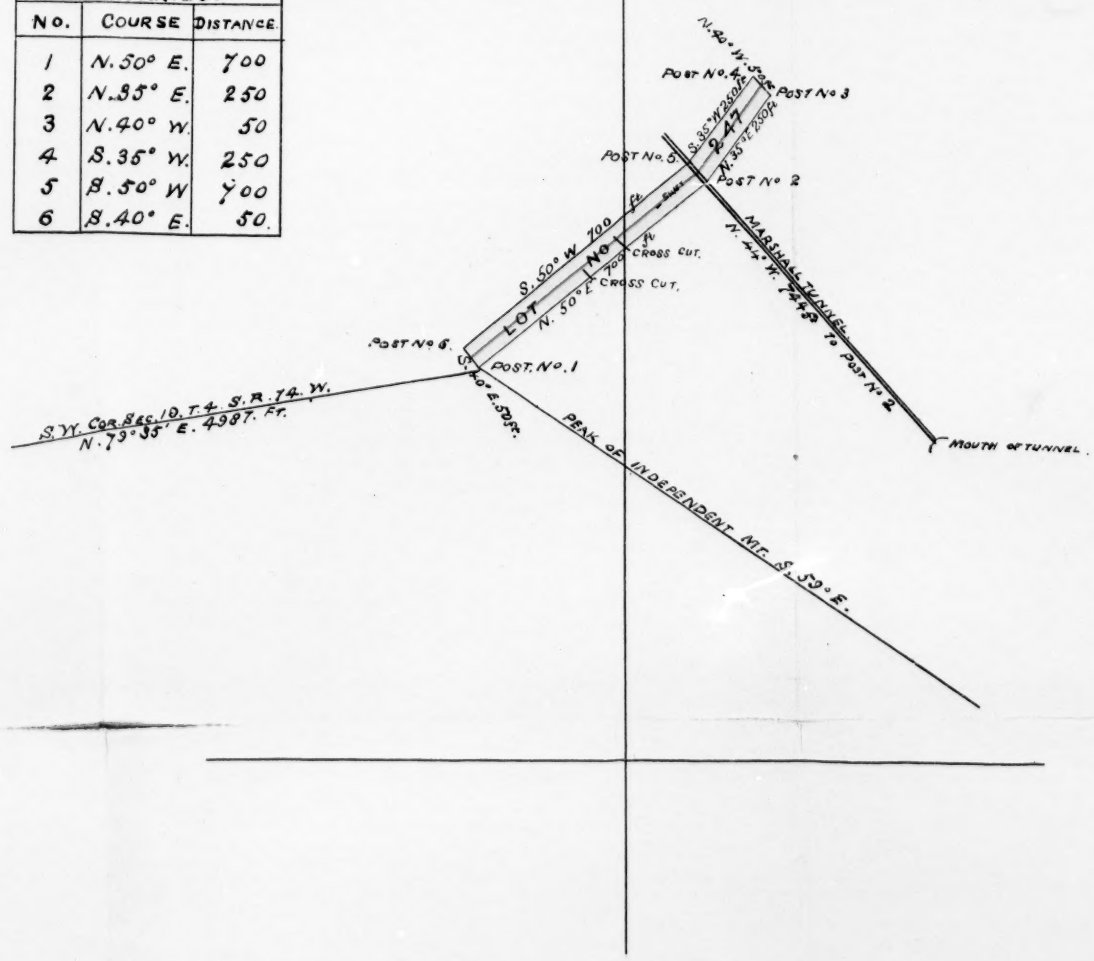
Marshall Silver

Mining Co. et al.

} p. 337

S.E. ¼ Sec. 19. T. 4. S. R. 74. W. | S.W. ¼. Sec. 20. T. 4. S. R. 74. W.

BOUNDARIES.		
No.	COURSE	DISTANCE
1	N. 50° E.	700
2	N. 35° E.	250
3	N. 40° W.	50
4	S. 35° W.	250
5	S. 50° W	700
6	S. 40° E.	50.



(1087-1,000)

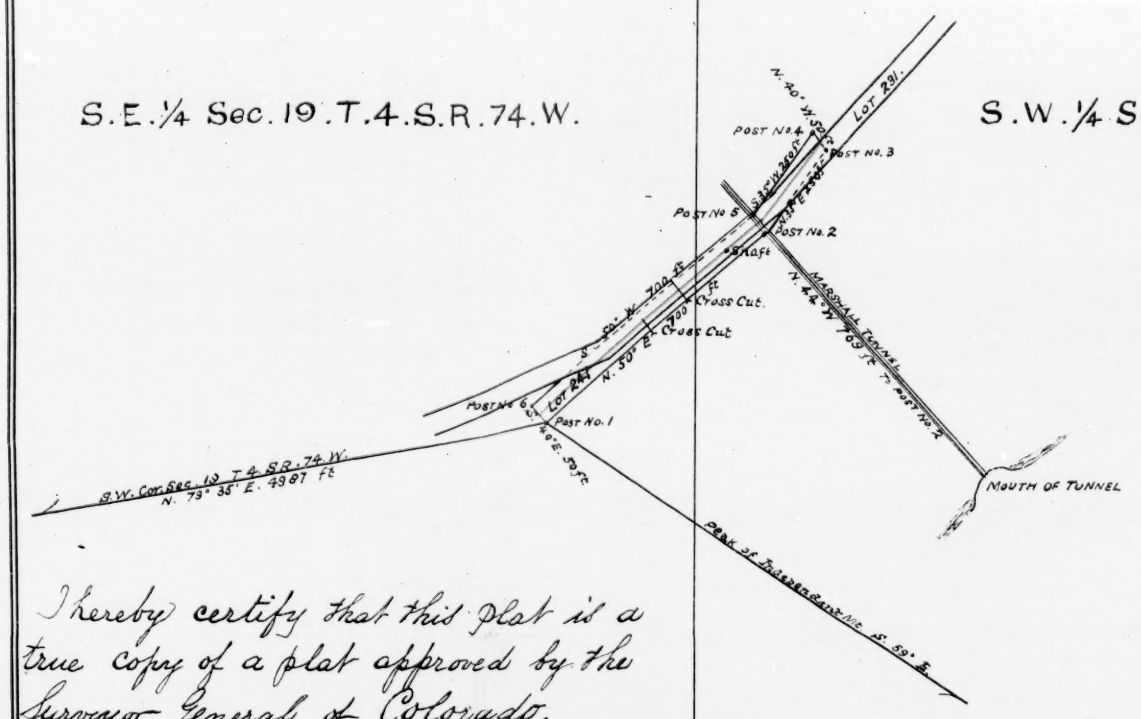
Plat of the Tunnel Lode No. 5.
Situated in Griffith Mining District, County of Clear Creek and Territory of Colorado

NORTH

No. 819.
The United States
vs.
Marshall Silver
Mining Co. etal.
} p. 332.

S.E. ¼ Sec. 19. T. 4. S. R. 74. W.

S.W. ¼ Sec. 20. T. 4. S. R. 74. W



I hereby certify that this Plat is a true copy of a plat approved by the Surveyor General of Colorado.
Georgetown. Dec. 12, 1872 Francis F. Brunè
Dep. U. S. Surveyor
Mineral Dist No. 2.

SOUTH.

Notice is Hereby Given. That the Marshall Silver Mining Company by their President Francis J. Marshall do claim by discovery and preemption Nine Hundred & Fifty feet in length, by Fifty feet in width, of surface ground on the Tunnel Lode No. 5, being a Silver bearing vein of rock in place, and situated in the mining district, County, and Territory aforesaid the location and extent thereof being more fully described as follows, to wit: Beginning at the S.W. Cor. Sec. 19. T. 4 S. R. 74. W. (Va. 15° 30' East) Thence, N. 79° 35' E. 4987 ft. established Cor. No. 1, being a post in Mound of Sts. marked No. 1. and 247 from which a peak of Independent Mt. bears S. 59° E. Thence N 50° E. 700 ft. to post No. 2. Thence N. 35° E 250 ft. to post No. 3 Thence N. 40° W. 50 ft. to post no. 4 Thence S. 35° W. 250 ft. to post No. 5. Thence S. 50° W. 700 ft. to post no 6. Thence, S. 40° E. 50 ft. to place of beginning containing 0. 45, acres and located in S.E. ¼ Sec. 19. T. 4. S. R. 74 W. and S. W. ¼. Sec. 20. T. 4. S. R. 74. W. The discovery is found 769 ft. from the mouth of the Marshall Tunnel in said Tunnel. Situated on Leavenworth Mt. Adjoining Claimants on the E. David E. Dulang & L. D. B. Gaskill et al: to be found in the Records of Clear Creek County, Colorado Territory, Book 2 Page 297 claimants on the W. unknown. as set forth on the foregoing plat, and we do hereby give further notice, that, having occupied & improved the said lode, according to the local customs and rules of miners in said mining district, & having expended in actual labor and improvements thereon, an amount not less than Five Hundred Dollars, and being in the quiet and peaceable possession thereof, we will apply for a Survey and Plat of said premises, and a Patent for the same, under the Act of Congress approved May 10, 1872.

Witness our Hand and seal, This Twelfth day of December 1872

We hereby certify that we saw this Twelfth day of December 1872, posted in a conspicuous place on the above claim a true copy of this plat and Notice

Thomas R. Brown Jr (Seal)
Samuel P. Bruce (Seal)

Attest:

William P. Hickok

T. J. Marshall President (Seal)
of Marshall Silver Mining (Seal)
Company of Georgetown (Seal)
Colorado Territory

Exhibit 1. Deft. testimony John M Webster Examiner

No. 8. 9.
The United States
vs.
Marshall Silver Mining Co. (al.)
p. 445

Indorsement on back.

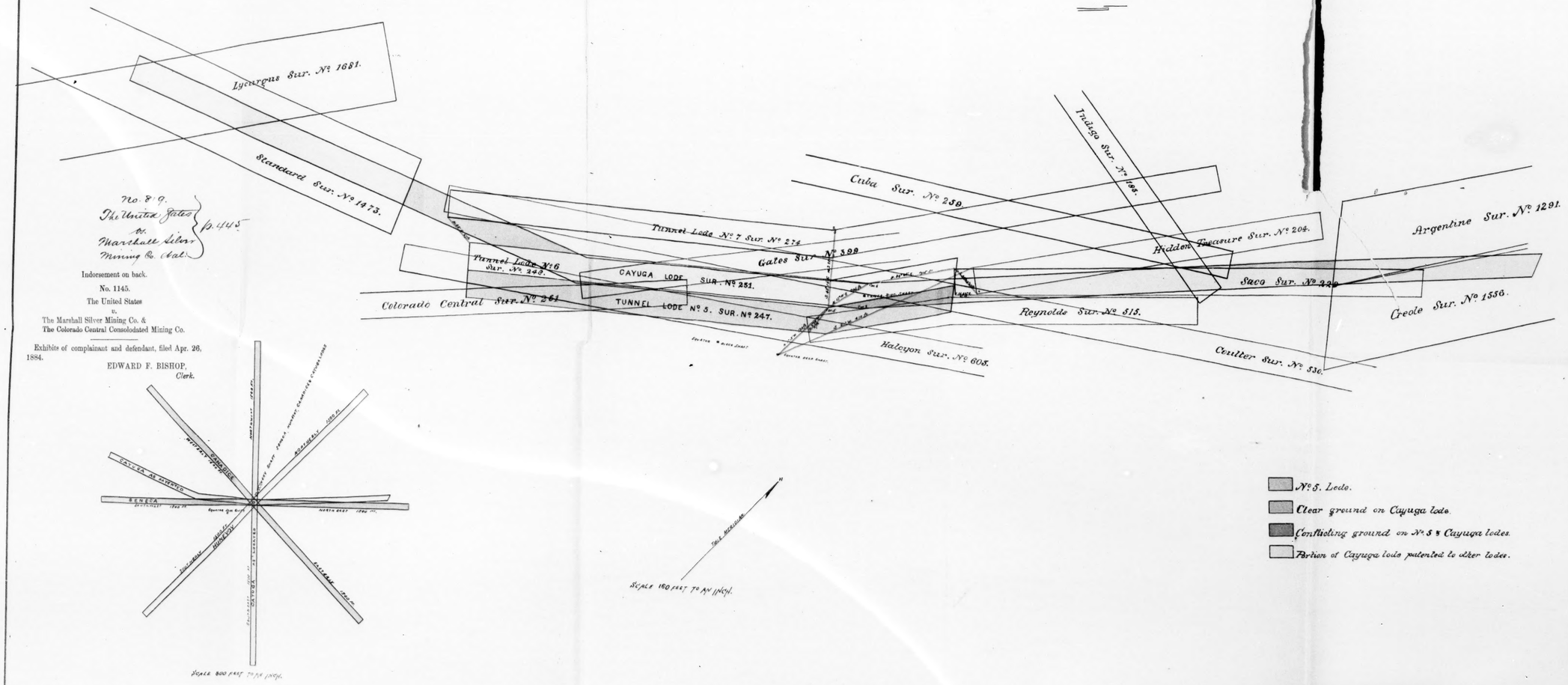
No. 1145.

The United States
v.
The Marshall Silver Mining Co. &
The Colorado Central Consolodated Mining Co.

Exhibits of complainant and defendant, filed Apr. 26, 1884.

EDWARD F. BISHOP,
Clerk.

SCALE 800 FEET TO AN INCH.



SCALE 160 FEET TO AN INCH.

No. 5. Lode.
Clear ground on Cayuga lode.
Conflicting ground on No. 5 & Cayuga lodes.
Portion of Cayuga lode patented to other lodes.

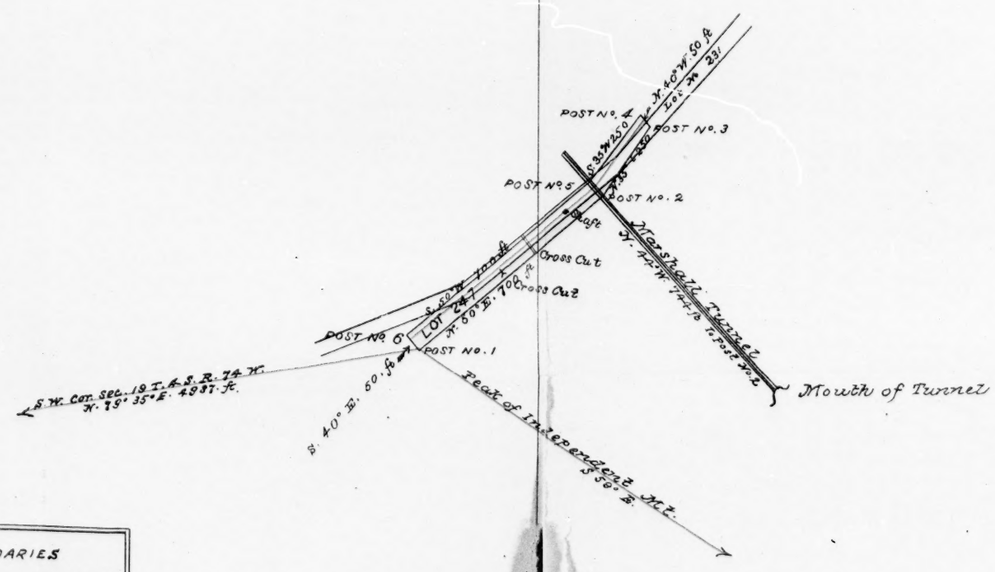
Exhibit J.
John T. Webster
Examiner

No. 819.
The United States
vs.
Marshall Silver
Mining Co. et al
} p. 4424.

N

S. E. 1/4 Sec. 19 T. 4 S. R. 74 W.

S. W. 1/4 Sec. 20. T. 4 S. R. 74 W.



BOUNDARIES		
No. of Course	COURSE	Distance in feet
1	N. 50° E.	700
2	N. 35° E.	250
3	N. 40° W.	50
4	S. 35° W.	250
5	S. 50° W.	700
6	S. 40° E.	50.

S

I Hereby certify this to be a correct Copy of the original plat on file in this Office

Denver, Colorado. Nov 27th 1883 } R. H. Muldrum
Surveyor General of Colorado.

Survey No. 247.
Mineral District No. 2.

Plat.

of the claim of the
Marshall Silver Mining Cos claim
upon the
Tunnel Lode No. 5.

Griffith mining District
Clear Creek County.
State of Colorado.
Containing an area of 0.45 acres.

Scale of 400 Feet to the inch.
Variation 15° 30' East.
Surveyed by
Francis F. Brunè.
U. S. Deputy Mineral Surveyor.
18__

The original Field Notes of the Survey of the claim of
The Marshall Silver Mining Cos Claim
upon the
Tunnel Lode No 5.

from which this Plat has been made have been examined and approved and are on file in this office, and I hereby certify that they furnish such an accurate description of said Mining Claim as will if incorporated into a patent serve fully to identify the premises, and that such reference is made therein to natural objects, and permanent monuments as will perpetuate and fix the locus thereof. I further certify that the value of the labor and improvements placed thereon ~~by the applicant or grantors~~ is not less than Five Hundred Dollars, and that ~~said improvements consist of~~ this is a correct plat of said Marshall Silver Mining Cos Mining claim or premises

~~as appeared by the affidavit of the deputy surveyor. And further certify that there is a correct Plat of said Mining Claim~~ made in conformity with said original field notes of the survey thereof.

U.S. Surveyor Generals Office
Denver Colorado
December 11th 1872 } Signed W. H. Leesig
U.S. Surveyor General for Colorado.

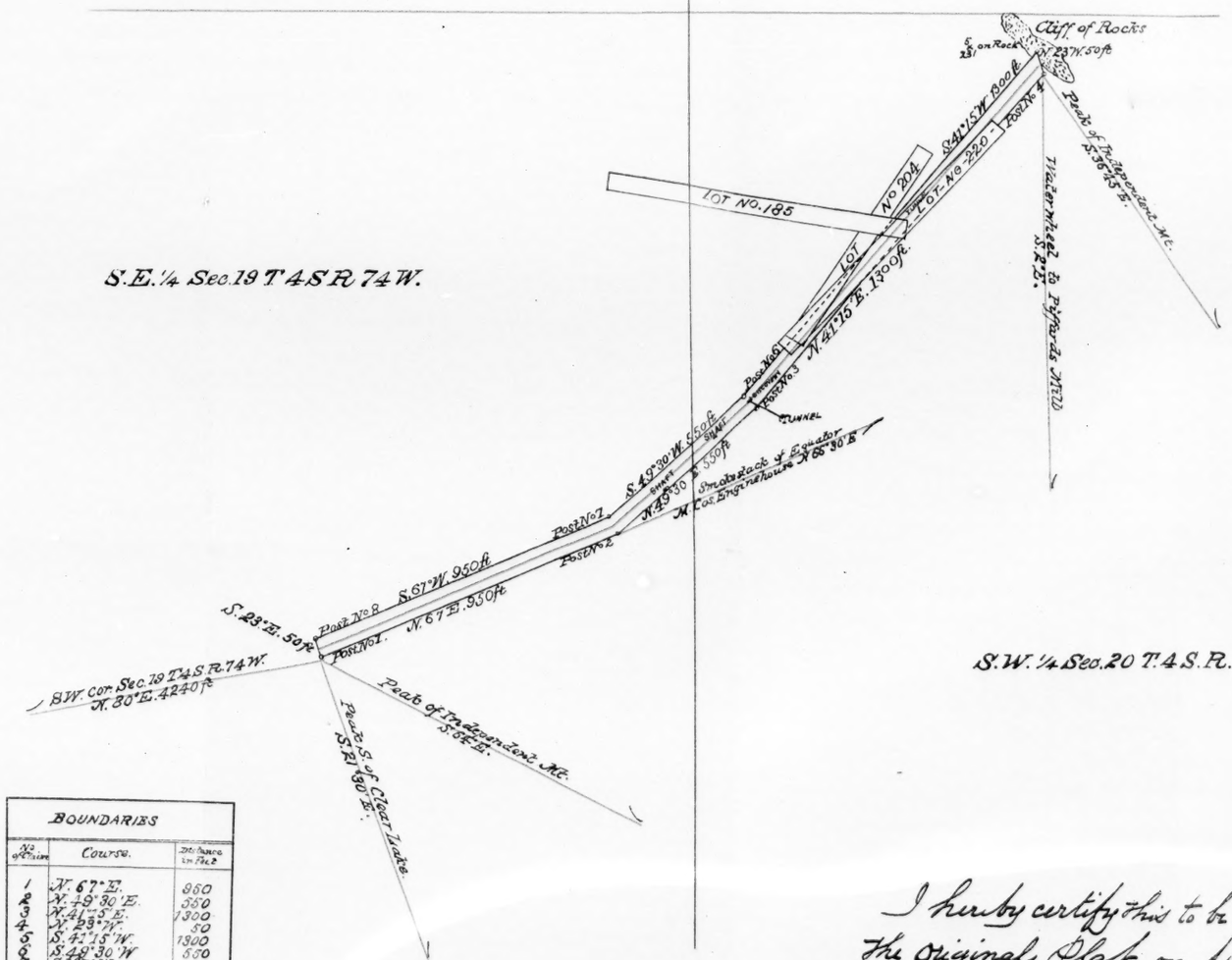
Patented

443.

Exhibit No 7
John M Webster
Examiner

No. 819.
The United States
vs.
Marshall Silver
Mining Co. et al.
} p. 443

N



S.E. 1/4 Sec. 19 T 4 S R 74 W.

S.W. 1/4 Sec. 20 T. 4 S. R. 74 W.

BOUNDARIES		
No of Course	Course.	Distance in Feet
1	N. 67° E.	950
2	N. 49° 30' E.	550
3	N. 41° 15' E.	1900
4	N. 23° W.	50
5	S. 41° 15' W.	1900
6	S. 49° 30' W	550
7	S. 67° W.	950
8	S. 23° E.	50.

S

I hereby certify this to be a correct Copy of the Original Plat on file in this office
U. S. Surveyor Generals' office
Denver, Colorado March 14th 1880
} N. H. Meldrum
Surveyor General of Colorado

Survey. No. 231.
Mineral District No 2.
Plat.
of the claim of
Erskine McClellan, Walter N. Webster and
Jos Rist
upon the
Cayuga Lode
Griffith Mining District
Clear Creek County.
State of Colorado.
Containing an area of 2.35. acres.
Scale of 400 feet to the inch.
Variation 15° 30' East.
Surveyed by
Francis F. Brunè
U.S. Deputy Mineral Surveyor
18__

The original Field Notes of the Survey of the Claim of Erskine McClellan, Walter N. Webster & Jos Rist upon the Cayuga Lode from which this plat has been made, have been examined and approved, and are on file in this office, and I hereby certify that they furnish such an accurate description of said Mining Claim as will if incorporated into a patent, serve fully to identify the premises, and that such reference is made therein to natural objects, and permanent monuments as will perpetuate and fix the locus thereof. I further certify that the value of the labor and improvements upon the said Mining Claim is not less than Five Hundred Dollars, and that this is a correct Plat of said E McClellan, W N Webster, & Jos Rist Mining Claim or premises made in conformity with said original field notes of the survey thereof.

U.S. Surveyor Generals Office
Denver Colorado
December 5th 1872
} Signed W. H. Ledyard
U.S. Surveyor General for Colorado.

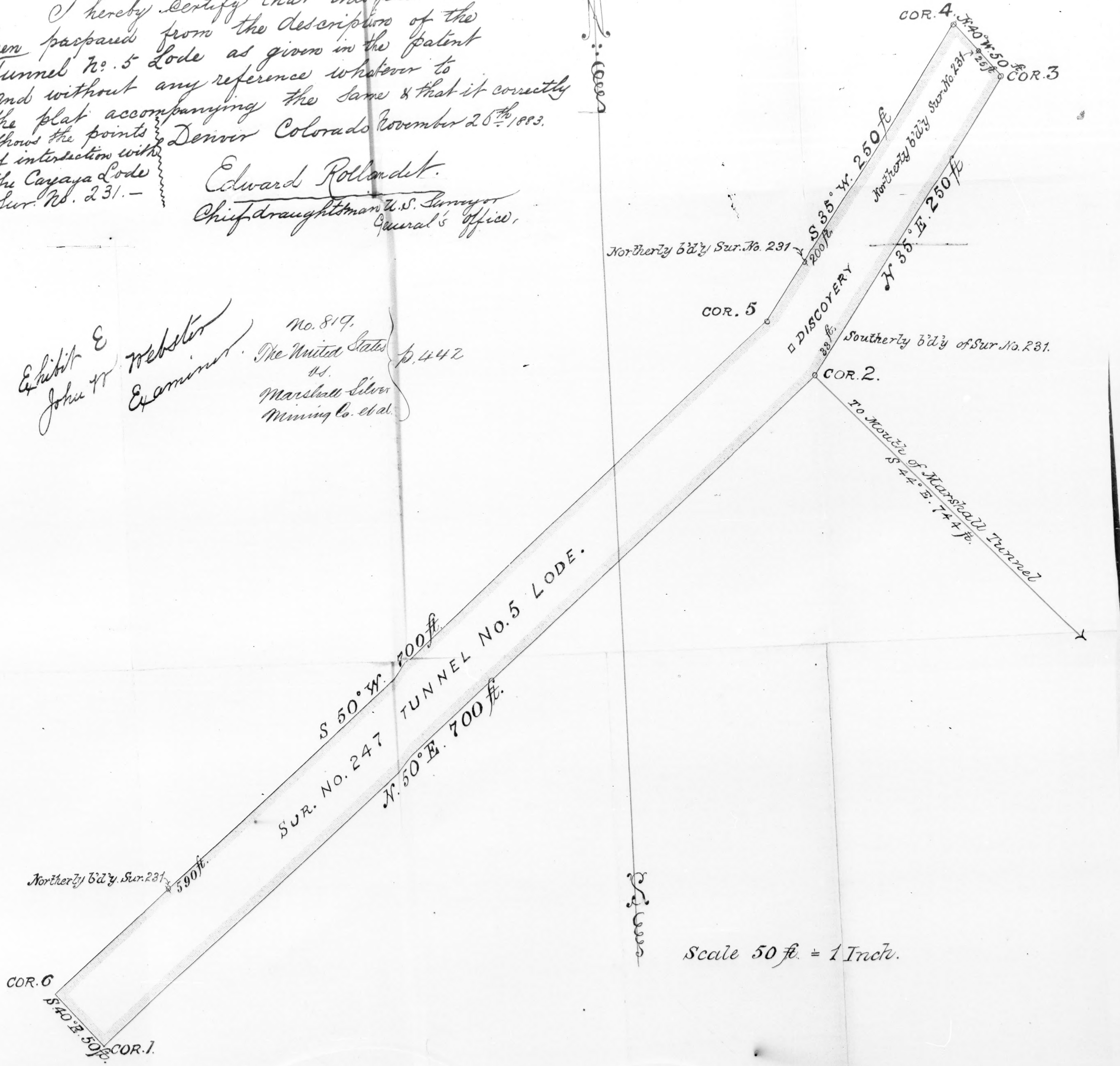
I hereby certify that this plat has been prepared from the descriptions of the Tunnel No. 5 Lode as given in the patent and without any reference whatever to the plat accompanying the same & that it correctly shows the points of intersection with the Cayaya Lode Sur. No. 231.—

Denver Colorado November 26th 1883.

Edward Rollandet.
Chief draughtsman U.S. Surveyor Gen'ral's Office.

Exhibit E
John W. Webster
Examiner.

No. 819.
The United States
vs.
Marshall Silver Mining Co. et al.
} P. 442



Scale 50 ft. = 1 Inch.